United Nations CAC/COSP/IRG/2018/1

Conference of the States Parties to the United Nations Convention against Corruption

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Implementation Review Group
Ninth session
Vienna, 4–6 June 2018

Annotated provisional agenda

Provisional agenda

1. Organizational matters:
   (a) Opening of the session;
   (b) Adoption of the agenda and organization of work.
2. Review of implementation of the United Nations Convention against Corruption.
3. Performance of the Mechanism for the Review of Implementation of the United Nations Convention against Corruption.
4. Technical assistance.
5. Financial and budgetary matters.
6. Other matters.
7. Provisional agenda for the tenth session of the Implementation Review Group.
8. Adoption of the report of the Implementation Review Group on its ninth session.

Annotations

1. Organizational matters

(a) Opening of the session

The ninth session of the Implementation Review Group will be opened on Monday, 4 June 2018, at 10 a.m., in the Vienna International Centre, M-Building, M-Plenary Room.

(b) Adoption of the agenda and organization of work

The provisional agenda for the ninth session of the Group was prepared in accordance with resolution 3/1, entitled "Review mechanism", adopted by the Conference of the States Parties to the United Nations Convention against Corruption at its third session, decision 5/1, entitled "Mechanism for the Review of Implementation of the United Nations Convention against Corruption", adopted by the Conference at its fifth session, and resolution 6/1, entitled "Continuation of the review of

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implementation of the United Nations Convention against Corruption", adopted by the Conference at its sixth session.

The proposed organization of work (see annex) was prepared in line with the guidance provided by the Conference and by the Implementation Review Group, in particular the multi-year workplan for the analytical work of the Group, covering the period 2017–2019 (CAC/COSP/IRG/2016/9/Add.1, annex I). In accordance with the multi-year workplan, the main topic of the analytical work of the Group during its regular ninth session will be the analysis of information on successes, good practices, challenges, observations and technical assistance needs emanating from the country reviews of chapter V (Asset recovery) of the Convention.

2. Review of implementation of the United Nations Convention against Corruption

Drawing of lots

In its resolution 6/1, the Conference of the States Parties requested the Group to proceed, at the beginning of its seventh session, to the selection of reviewed and reviewing States parties for the second review cycle by the drawing of lots in accordance with paragraphs 14 and 19 of the terms of reference of the Mechanism. The Conference also requested the Group to hold intersessional meetings open to all States parties for the purpose of the drawing of lots in accordance with paragraph 19 of the terms of reference of the Mechanism and without prejudice to the right of a State party to request that the drawing of lots be repeated at the Group's subsequent intersessional meeting or regular session.

Moreover, at its first session, the Implementation Review Group decided that States ratifying or acceding to the Convention after the drawing of lots at the first session of the Group would be reviewed starting in the fourth year of the first review cycle. In its resolution 4/1, the Conference endorsed the practice followed by the Group with regard to the procedural issues arising from the drawing of lots.

In accordance with Conference resolution 6/1, an intersessional meeting open to all States parties for the purpose of the drawing of lots will be convened on Friday, 1 June 2018, in the Vienna International Centre, C-Building, Boardroom D, from 2 to 6 p.m. During the intersessional meeting, lots will be drawn for the selection of the reviewing States parties for the third year of the second review cycle, in accordance with paragraph 19 of the terms of reference of the Mechanism. In addition, lots will be drawn to select the reviewing States parties for the first cycle reviews of any States parties that have become parties to the Convention since the previous drawing of lots, held at the resumed eighth session of the Implementation Review Group.[1] Lots may also be drawn to select the reviewing States parties for any States parties requesting redraws.

The intersessional meeting is being convened without prejudice to the exercise of the rights of States parties in accordance with the terms of reference of the Mechanism during the ninth session of the Group, and is aimed at enabling the Group to focus on substantive issues during its ninth session. To this end, the Group will be informed of the outcome of the intersessional meeting, and agenda item 2 (on the review of implementation of the Convention) will remain open until the last day of its ninth session.

Trilateral meetings

Under the agenda item and in line with past practice, the secretariat has made arrangements for the scheduling of trilateral meetings among States parties under review and reviewing States parties on the margins of the session. The scheduling of such meetings takes into account the views expressed by the Group on the usefulness

[1] Since the resumed eighth session of the Group, no additional States have ratified or acceded to the Convention. However, States may do so prior to the intersessional meeting to be held on 1 June 2018.

of holding trilateral meetings for advancing the review of implementation in order to achieve progress and discuss outstanding issues in individual country reviews.

Progress update

The secretariat will provid an oral update on progress made in the conduct of the reviews in the first and second review cycles. The update will focus on the responses received to the self-assessment checklist, the direct dialogues conducted, the executive summaries and country review reports that have been finalized and the country review reports that have been made available on the website of the United Nations Office on Drugs and Crime.

First review cycle

The secretariat will provide information concerning the update of the set of non-binding recommendations and conclusions based on lessons learned regarding the implementation of chapters III and IV of the Convention (see CAC/COSP/2017/5), which were before the Conference at its seventh session and before the Group at its resumed eighth session.

Second review cycle

In accordance with the multi-year workplan for the analytical work of the Group, the ninth session of the Group is to focus on analysing the successes, good practices, challenges, observations and technical assistance needs emanating from the country reviews of chapter V (Asset recovery) of the Convention.

To that end and to facilitate the Group's discussion, a panel will be convened focusing on challenges, good practices and lessons learned by States parties in the implementation of chapter V of the Convention. In that regard, the taking of measures as may be necessary to permit other States parties to initiate civil action in court to establish title to or ownership of property acquired through the commission of an offence established in accordance with the Convention has been identified as a topic for more in-depth discussions during the ninth session.

Documentation

Note by the Secretariat on progress in the implementation of the mandates of the Implementation Review Group (CAC/COSP/IRG/2018/3)

Implementation of chapter V (Asset recovery) of the United Nations Convention against Corruption: thematic report prepared by the Secretariat (CAC/COSP/IRG/2018/5)

Implementation of chapter II (Preventive measures) of the United Nations Convention against Corruption: thematic report prepared by the Secretariat (CAC/COSP/IRG/2018/6)

Note by the Secretariat on the follow-up to the St. Petersburg Statement transmitting the report of the international expert group meeting on beneficial ownership transparency, held in Vienna on 3 and 4 October 2017 (CAC/COSP/IRG/2018/7)

Executive summary of country review reports (CAC/COSP/IRG/I/4/1/Add.61)

Executive summaries of country review reports (CAC/COSP/IRG/II/1/1/Add.3, CAC/COSP/IRG/II/1/1/Add.4, CAC/COSP/IRG/II/1/1/Add.5 and CAC/COSP/IRG/II/1/1/Add.6)

3. Performance of the Mechanism for the Review of Implementation of the United Nations Convention against Corruption

Progress report

In its decision 5/1, the Conference of the States Parties decided that the Group should include a new item on the agenda of its future sessions allowing for discussion of relevant information, collected with the support of the Secretariat, in order to facilitate the assessment of the performance of the Review Mechanism and its terms of

reference, in accordance with paragraph 48 of the terms of reference, following the completion of the first review cycle.

The Secretariat has compiled and analysed information relating to the overall performance of the Mechanism during the second review cycle. Particular emphasis has been placed on analysing recurring delays in the first and second year of the second cycle, in a bid to bring them to the attention of the Group. A comparison between the length of time required for the completion of the different steps of the review process in the first two years of the first cycle and the first two years of the second cycle has also been prepared to facilitate the Group's discussion.

Synergies with the secretariats of other relevant multilateral mechanisms

In its resolution 6/1, the Conference called upon the Secretariat to continue exploring and, where appropriate, enhancing synergies, in coordination and cooperation with the secretariats of other relevant multilateral mechanisms in the field of anti-corruption. Subsequently, in its resolution 7/4, the Conference requested the Secretariat to continue its dialogue with States parties and with the secretariats of other relevant multilateral mechanisms. A report on work undertaken in that regard will be circulated to the Group in a conference room paper (CAC/COSP/IRG/2018/CRP.1). In addition, the secretariats of other relevant multilateral mechanisms will be invited to report on their activities.

Documentation

Note by the Secretariat on performance of the Implementation Review Mechanism (CAC/COSP/IRG/2018/2)

4. Technical assistance

In its resolution 3/1, the Conference of the States Parties decided that the Implementation Review Group would be in charge of following up and continuing the work undertaken previously by the Open-ended Intergovernmental Working Group on Technical Assistance.

Paragraph 44 of the terms of reference states that the functions of the Implementation Review Group are to have an overview of the review process in order to identify challenges and good practices and to consider technical assistance requirements in order to ensure effective implementation of the Convention.

In its resolution 4/1, the Conference took into account that, pursuant to paragraph 11 of the terms of reference, one of the goals of the Review Mechanism was to help States parties to identify and substantiate specific needs for technical assistance and to promote and facilitate the provision of technical assistance.

In the same resolution, the Conference recognized the continuing and valuable role of technical assistance within the Review Mechanism, as well as the importance of country-led and country-based integrated and coordinated programming and delivery of technical assistance as an effective means of addressing technical assistance needs of States parties. Also in that resolution, the Conference requested the secretariat to continue to develop a three-tiered approach — global, regional and national — to the delivery of technical assistance in the light of the priority areas identified as a result of the review process.

In its resolution 6/1, the Conference underscored the importance of addressing the technical assistance priorities identified in the country reviews, and invited technical assistance providers to consider those priorities either for new technical assistance programmes or for incorporation into ongoing programmes.

At the ninth session of the Group, the secretariat will provide an oral update on technical assistance needs identified through the individual country reviews that have been finalized in the second cycle, as well as on new trends identified in the first cycle since the eighth session of the Group, and on the technical assistance provided. In line

with the thematic focus of the ninth session of the Group, the update will concentrate in particular on technical assistance needs and technical assistance provided in relation to the implementation of chapter V of the Convention.

A panel on technical assistance in relation to articles pertaining to chapter V of the Convention will be organized in order to facilitate the Group's discussion of the matter.

Agenda item 4 will be discussed together with item 5, "Forum for discussions on capacity-building and technical assistance", of the agenda of the twelfth meeting of the Open-ended Intergovernmental Working Group on Asset Recovery at a joint meeting of the Implementation Review Group and the Working Group.

Documentation

Note by the Secretariat on technical assistance in support of the implementation of the United Nations Convention against Corruption, including analysis of technical assistance needs emerging from the country reviews (CAC/COSP/IRG/2018/CRP.2)

5. Financial and budgetary matters

In its resolution 3/1, the Conference underlined that the Review Mechanism would require a budget that ensured its efficient, continued and impartial functioning. Pursuant to that resolution, the General Assembly, in its resolution 64/237, requested the Secretary-General to ensure that the Mechanism was adequately funded.

In its resolution 4/1, the Conference decided that the Implementation Review Group should assist it in the fulfilment of its responsibility to consider the budget biennially by engaging with the Secretariat during the intersessional period with regard to expenditures and projected costs related to the Review Mechanism.

At its ninth session, the Implementation Review Group will have before it a note by the Secretariat (CAC/COSP/IRG/2018/4) containing budgetary information on expenditures incurred so far for the operation of the Review Mechanism, resources received at the time of writing, both from the regular budget and from voluntary contributions, projected expenditures for the first and second cycles, effects of cost-saving measures and the current shortfall on resource requirements for the functioning of the Mechanism.

Documentation

Note by the Secretariat on financial and budgetary matters (CAC/COSP/IRG/2018/4)

6. Other matters

The Implementation Review Group may wish to discuss any other matters.

7. Provisional agenda for the tenth session of the Implementation Review Group

The Implementation Review Group is to consider and approve, at its ninth session, a provisional agenda for its tenth session, which will be drafted by the secretariat in consultation with the Chair.

8. Adoption of the report of the Implementation Review Group on its ninth session

The Implementation Review Group is to adopt a report on its ninth session, the draft of which will be prepared by the secretariat.

Annex

Proposed organization of work

Date and time	*Item*	*Title or description*
Monday, 4 June 2018		
10 a.m.–1 p.m.	1 (a)	Opening of the session
	1 (b)	Adoption of the agenda and organization of work
	3	Performance of the Mechanism for the Review of Implementation of the Convention
3–6 p.m.	3	Performance of the Mechanism for the Review of Implementation of the Convention (*continued*)
	2	Review of implementation of the United Nations Convention against Corruption
Tuesday, 5 June 2018		
10 a.m.–1 p.m.	2	Review of implementation of the Convention (*continued*)
3–6 p.m.	5	Financial and budgetary matters
	6	Other matters
	7	Provisional agenda for the tenth session of the Implementation Review Group
Wednesday, 6 June 2018		
10.30 a.m.–1 p.m.	4	Technical assistance[a]
3–5.30 p.m.	4	Technical assistance (*continued*)
5.30–6 p.m.	8	Adoption of the report of the Implementation Review Group on its ninth session

[a] Agenda item 4 will be discussed together with item 5, "Forum for discussions on capacity-building and technical assistance", of the agenda of the twelfth meeting of the Open-ended Intergovernmental Working Group on Asset Recovery at a joint meeting of the Implementation Review Group and the Working Group.

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Vienna, 4–6 June 2018
Item 3 of the provisional agenda*
Performance of the Mechanism for the Review of Implementation of the United Nations Convention against Corruption

Performance of the Mechanism for the Review of Implementation of the United Nations Convention against Corruption

Note by the Secretariat**

Introduction

1. During the fifth session of the Conference of the States Parties to the United Nations Convention against Corruption, the Secretariat presented a note entitled "Translating commitment into results: impact of the Mechanism for the Review of Implementation of the United Nations Convention against Corruption" (CAC/COSP/2013/14). In its decision 5/1, the Conference decided that the Implementation Review Group should begin promptly to collect, with the support of the Secretariat, and discuss relevant information in order to facilitate the assessment of performance of the Mechanism for the Review of Implementation of the United Nations Convention against Corruption. The Conference also decided that the Group should include in its future sessions an agenda item allowing for the discussion of such information.

2. While document CAC/COSP/2013/14 was well received, it was primarily based on the experiences of Secretariat staff who had participated in country reviews or provided technical assistance to States parties in preparation for, during or subsequent to the country review process. However, encouraged by the discussions during the fifth session and, subsequently, the resumed fifth session of the Group and in line with Conference decision 5/1, in February 2015, the Secretariat addressed a note verbale to States parties that had completed their reviews, inviting them to submit information on any action they had taken in follow-up to gaps or needs identified during the review. The information received in response was in part included in the note prepared by the Secretariat for the sixth session of the Conference, entitled "Assessment of the

* CAC/COSP/IRG/2018/1.

** The present document was submitted after the deadline so as to include the most recent information.

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performance of the Mechanism for the Review of Implementation of the United Nations Convention against Corruption" (CAC/COSP/2015/6).

3. In its resolution 6/1, the Conference of the States Parties encouraged States parties to continue voluntarily sharing information on good practices, experiences and relevant measures taken after the completion of their reviews, including information related to technical assistance, and to consider providing such information to the Secretariat for publication on its website.

4. Recalling its previous request for information and in line with Conference resolution 6/1, in April 2016, the Secretariat sent out a second note verbale, in which it encouraged States parties to submit information on good practices, experiences and measures taken after the completion of the reviews, as well as on technical assistance received or provided as related to needs identified in the country review reports. The aim of that note verbale was to solicit further information that could serve as a basis for analysis and discussion on the performance of the Mechanism by the Group during its resumed seventh session. The information received in response to the notes verbales, as well as information received during sessions of the Implementation Review Group and the country reviews, was consolidated in document CAC/COSP/IRG/2016/12.

5. Subsequently, the information was presented to the Conference of the States Parties at its seventh session, in November 2017, in the note by the Secretariat containing an analysis of good practices, experiences and relevant measures taken by States parties after completion of the reviews during the first implementation review cycle (CAC/COSP/2017/12). As of September 2017, 160 States had completed their executive summaries under the first cycle of the Implementation Review Mechanism. Document CAC/COSP/2017/12 reflected not only the 31 written submissions from States that the Secretariat had received, but also information contained in numerous statements made by representatives of States parties at the seventh, resumed seventh and eighth sessions of the Implementation Review Group. The statements had been gathered by the Secretariat and added another 34 States to the list. Information on measures to combat corruption taken by another 30 States parties as a direct result of the reviews was gathered either in the context of the ongoing reviews or through the delivery of technical assistance. In total, information from 95 States parties,[1] or 60 per cent of the States that had finalized their reviews, was analysed.

6. Since CAC/COSP/2017/12 was drafted, only two additional submissions have been received. The information contained therein did not change the analysis that was provided to the Conference of the States Parties at its seventh session, in November 2017. The additional information has been added to the country profile pages on the website of the Implementation Review Group.

A. Time frames established for the implementation review process

7. The second cycle of the Implementation Review Mechanism was launched at the sixth session of the Conference of the States Parties, held in St. Petersburg, Russian Federation, from 2 to 6 November 2015, by means of Conference resolution 6/1, on the

[1] Afghanistan, Algeria, Argentina, Armenia, Australia, Austria, Azerbaijan, Bangladesh, Benin, Botswana, Brazil, Brunei Darussalam, Burkina Faso, Cambodia, Cameroon, Central African Republic, Chile, Colombia, Cook Islands, Costa Rica, Côte d'Ivoire, Cuba, Dominica, Dominican Republic, Ecuador, Egypt, El Salvador, Ethiopia, Finland, France, Gabon, Ghana, Greece, Guatemala, Guinea, Guinea Bissau, Honduras, Hungary, Indonesia, Iran (Islamic Republic of), Iraq, Israel, Italy, Kenya, Kiribati, Kuwait, Liberia, Liechtenstein, Madagascar, Malawi, Malaysia, Mali, Mauritania, Mauritius, Mexico, Micronesia (Federated States of), Montenegro, Morocco, Namibia, Nauru, Nepal, New Zealand, Nicaragua, Niger, Nigeria, Oman, Pakistan, Panama, Paraguay, Peru, Philippines, Portugal, Russian Federation, Sao Tome and Principe, Saudi Arabia, Senegal, Slovakia, Solomon Islands, Spain, Sri Lanka, Sudan, Swaziland, Sweden, Switzerland, Thailand, Togo, United Arab Emirates, Uganda, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, United States of America, Vanuatu, Venezuela (Bolivarian Republic of), Zambia and Zimbabwe.

continuation of the review of implementation of the United Nations Convention against Corruption. At the subsequent intersessional meeting, held in Vienna in June 2016, the drawing of lots was held for the scheduling of the country reviews in the second cycle, which was organized as follows: year one — 29 States; year two — 49 States; year three — 36 States; year four — 35 States; and year five — 29 States. As of April 2018, six executive summaries from the second cycle had been finalized, rendering the information base too limited to allow for any identification or analysis of impact emanating from the second cycle. Despite the early scheduling of the reviews, and as noted by the Secretariat in its oral updates to the Conference of the States Parties during its seventh session, delays were identified in the performance and progress of the second review cycle. The Secretariat also highlighted that any further delays could jeopardize the successful and timely conclusion of the second cycle (see CAC/COSP/2017/14, para. 57).

8. In order to more accurately assess the reasons behind the delays encountered in the second cycle, the present document draws on the statistical data that have already been presented in part in the note by the Secretariat on progress in the implementation of the mandates of the Implementation Review Group (CAC/COSP/IRG/2018/3). In doing so, a comparison has been made between the performance of the Mechanism during the first two years of the first and second cycles, to seek to ascertain at what stage of the review the delays occur. The analysis focuses on two critical points in each country review, namely the time that States parties were required to submit their self-assessment checklist and the finalization of the executive summary.

9. According to the Guidelines for governmental experts and the secretariat in the conduct of country reviews, the checklist should be submitted two months after the commencement of the reviews and the full review should be completed within six months. The learning process of the Implementation Review Mechanism has shown that completion of the country reviews has never taken place within six months. There are a number of reasons for this, including translation requirements, scheduling difficulties for the country visits and delays in the submission of additional information following the country visit. Nevertheless, the submission of the checklist has remained a cornerstone of the review process, a sine qua non and the point in time when the country review can start in earnest. As such, any delays in the submission of the checklist inevitably resulted in a delay of the country review as a whole. Figure I below shows an overview of the time frames associated with the country reviews conducted in years one and two of the first review cycle.

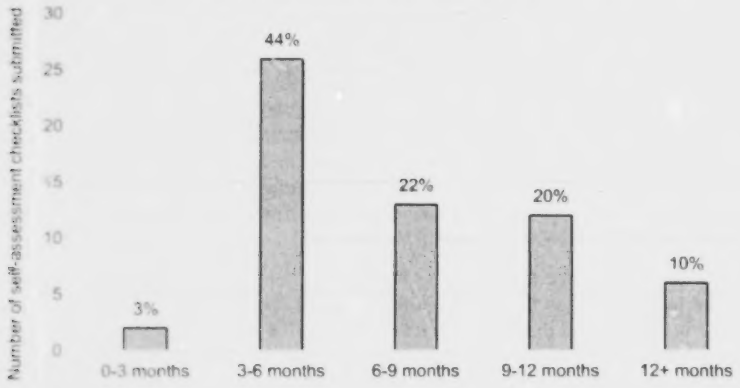
10. The starting date for the review remained the time of the drawing of lots for the purpose of country pairings for the upcoming year of reviews.

B. Progress in the submission of the self-assessment checklists

11. The following figures were compiled to help evaluate the time taken between the start of a review and the submission of the self-assessment checklist. While it would have been ideal to have correlated this information with the overall time to complete a review, the limited number of completed reviews for the second cycle did not lend itself to such an analysis. The figures cover the country reviews conducted in years one and two of both review cycles.

Figure I

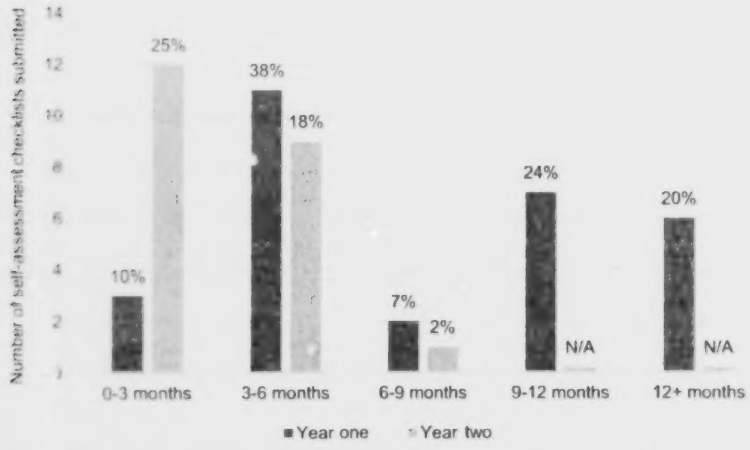
Overview of time taken for States under review in the first review cycle to submit their self-assessment checklists (total 64 States parties)



12. Of the 24 States parties that were under review in year one of the first review cycle, all but four submitted their checklists within 12 months of the commencement of their country reviews. Those four States submitted their checklists within 18 months. In the second year of the first review cycle, during which 40 States parties were to be under review, only two States parties submitted their checklists more than 12 months after their reviews had begun. Both did so within 18 months of the commencement of their country reviews. It should be noted that at the beginning of the mechanism, a large number of checklists required additional information, which led the Secretariat to communicate with the State party under review to highlight gaps and deficiencies in the checklist. Such requests for completion were frequently done before sharing the checklists with the reviewing States parties, adding time to the overall review.

Figure II

Overview of time taken for States under review in years one and two of the second review cycle to submit their self-assessment checklists (total 77 States parties)



13. By way of comparison, the number of reviews to be carried out during years one and two of the second cycle was 29 during year one and 48 during year two. At the time of drafting the present document, four checklists had not yet been submitted for the reviews of the first year of the second cycle, while more than half, or 26, of the

reviews for year two were still to be submitted 10 months after the beginning of the review (see figure II).

C. Training courses for focal points and governmental experts participating in the Implementation Review Mechanism

14. In accordance with paragraph 32 of the terms of reference of the Mechanism, and paragraph 11 of the guidelines for governmental experts and the secretariat in the conduct of country reviews, the secretariat organizes periodic training courses for focal points and governmental experts participating in the reviews. Those training courses are aimed at familiarizing the focal points and experts with the guidelines to increase their capacity to participate in the review process.

First review cycle

15. To date, over 1,800 experts have been trained in the framework of the first review cycle, thus contributing to the creation of a global community of anti-corruption experts. National training courses and ad hoc assistance have been provided to over 40 countries and, since June 2013, seven regional training courses have been organized.

Second review cycle

16. As of April 2018, six regional training sessions and four global training sessions have been organized for the second review cycle. In particular, training sessions were being organized back to back with sessions of the Implementation Review Group to save costs for both the States parties under review and the Secretariat. In addition, targeted assistance was available to States parties under review in support of their reviews.

17. At the time of writing the present report, over 390 focal points and governmental experts had participated in the regional and global training sessions for the second review cycle.

D. Analysis and the way forward

18. In comparing the time required by States parties to submit their checklists during the first and second cycles, the second cycle should have benefited from the experience and insights gained during the first cycle. In document CAC/COSP/2013/14, paragraph 52, the Secretariat highlighted how the review of chapter II of the Convention, in being very far-reaching, was also likely to require national consultations among many departments and agencies. It was anticipated that those consultations could lead to delays, in particular when it came to gathering sufficient information to provide a well-substantiated information base for the reviews. In a bid to pre-empt those delays, the Secretariat made several efforts to support States in their tasks as States parties under review, as set out below.

Guidance note

19. During the seventh session of the Implementation Review Group, held in Vienna from 20 to 24 June 2016, the Secretariat issued, in all official languages of the United Nations, guidance on filling in the revised draft self-assessment checklist on the implementation of chapters II and V of the Convention (CAC/COSP/IRG/2016/CRP.1). That guidance was extensively reviewed with the States parties during a series of meetings in Vienna and the States that used that guidance have submitted notably higher-quality self-assessment checklists.

Providing training opportunities, with priority for States parties under review

20. The Secretariat has made ongoing efforts to alert States parties of delays anticipated before the commencement of reviews. To that end, training courses were organized for focal points and governmental experts ahead of years two and three of the second cycle.

21. The early training of focal points prior to the commencement of country reviews resulted in a majority of focal points being nominated before the starting date of the country reviews. It should be noted that all States parties under review under years one and two of the second cycle were invited on several occasions to attend different training workshops.

22. With a view to encouraging the early nomination of focal points for year three of the second cycle, four training courses for focal points were being organized at the time of writing the present report: one in Panama City, from 17 to 20 April 2018; one in Moscow, from 24 to 26 April 2018; one in Dakar, from 8 to 10 May 2018; and one in Vienna, on 7 and 8 June 2018. The latter was scheduled to be held back to back with the ninth session of the Implementation Review Group. Again, it was anticipated that, through those courses, all States parties under review in year three of the second review cycle would have been offered an opportunity to avail themselves of training on the second review cycle prior to the start of the review.

Anticipation of continued delays in the country reviews

23. The States parties under review in the second cycle have frequently cited chapter II, on prevention, as being at the root of their delays in submitting the self-assessment checklists. The need to consult a considerable number of stakeholders, in particular in federal or multi-jurisdictional States, has further complicated matters, as information and inputs have frequently been sought at both the state and federal levels. A lag was identified in the submission of the self-assessment checklists, in particular for the States parties undergoing their review in year two of the second cycle.

24. Clearly, delays can and do occur throughout the country reviews. However, the initial delays in submitting the self-assessment checklist remained of increasing concern to the Secretariat. Ten months after the commencement of year two of the second cycle, over half of the States parties under review have yet to submit their self-assessment checklists. The Secretariat has also noted that a number of States that were acting as reviewing parties in year one have since come under review themselves in year two and vice versa, causing an increased workload for all involved. The spillover of those delays to subsequent years of the second cycle has already started having a negative impact on the capacity of States, as well as of the Secretariat, to carry out both the delayed reviews as well as the subsequent year's reviews at the same time.

Way forward

25. While it is too soon to compare in a comprehensive manner the different steps in the country reviews for the first and second cycles, based on the delays experienced in the submission of the self-assessment checklists, there is reason for serious concern with regard to the duration of the individual country reviews in the second cycle and the resulting overall duration of the cycle.

26. The Secretariat will continue monitoring the overall progress in submissions of checklists and completion of reviews, and keep the Group informed of the performance of the Mechanism's second cycle.

27. The Group may wish to consider ways to encourage all States parties to redouble their efforts to prevent any further delays, which put at risk the good performance of the Mechanism.

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Conference of the States Parties to the United Nations Convention against Corruption

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Review of implementation of the United Nations Convention against Corruption

Progress in the implementation of the mandates of the Implementation Review Group

Note by the Secretariat

Summary

The present document contains updated information[1] on the conduct of country reviews during the first and second review cycles of the Mechanism for the Review of Implementation of the United Nations Convention against Corruption and on activities of the Implementation Review Group in the context of its function of overseeing the review process and submitting policy recommendations to the Conference of the States Parties to the Convention for its consideration and approval.

* CAC/COSP/IRG/2018/1.

[1] The present document provides an update to documents CAC/COSP/IRG/2014/4, CAC/COSP/IRG/2016/2, CAC/COSP/IRG/2017/2 and conference room paper CAC/COSP/IRG/2015/CRP.15.

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I. Organization and conduct of country reviews during the first review cycle and the first and second year of the second review cycle

A. Statistical overview

1. The following numbers show the progress achieved in the conduct of the country reviews during:

(a) The first cycle of the Implementation Review Mechanism for the Review of Implementation of the United Nations Convention against Corruption;

(b) The first and second years of the second cycle of the Mechanism.

2. During the first cycle, 181 States parties were to be reviewed. At the time of writing the present report, 176 responses to the self-assessment checklist had been received and 169 direct dialogues had been held (157 country visits and 12 joint meetings). Furthermore, 163 executive summaries and 141 country review reports had been completed and 79 States parties had made their full country review report available on the website of the United Nations Office on Drugs and Crime (UNODC).

3. During the first year of the second cycle, 29 States parties were to be reviewed. At the time of writing, 25 responses to the self-assessment checklist had been received and 17 country visits and one joint meeting had been held. Two States parties had made their full country review reports available on the UNODC website.

4. During the second year of the second cycle, 48 States parties were to be reviewed. At the time of writing, 24 responses to the self-assessment checklist had been received and 3 country visits had been held.

B. Drawing of lots

5. In accordance with paragraph 14 of the terms of reference of the Implementation Review Mechanism, the States parties participating in the review process in a given year of a review cycle are selected by a drawing of lots at the beginning of each cycle. Paragraph 19 of the terms of reference provides that the selection of the reviewing States parties shall be carried out by the drawing of lots at the beginning of each year of the cycle, with the understanding that States parties shall not undertake mutual reviews.

(a) First review cycle

6. In accordance with these provisions, the reviewing States parties for the fourth year of the first cycle of the Mechanism were selected through a drawing of lots held at the fourth session of the Implementation Review Group. Sixty-two country reviews began on 1 July 2013, and further drawings of lots were held to select the reviewing States parties for the States parties that had ratified or acceded to the Convention thereafter. Those additional drawings of lots took place at the resumed fourth, fifth, resumed fifth, sixth, resumed sixth, seventh, resumed seventh, eighth and resumed eighth sessions of the Group.

7. At the time of writing, 16 additional States were under review in the fourth year, having become parties to the Convention since the launch of the first review cycle.[2]

(b) Second review cycle

8. In its resolution 6/1, the Conference requested the Group to proceed, at the beginning of its seventh session, to the selection of reviewed and reviewing States parties for the second review cycle by the drawing of lots in accordance with

[2] Other States may become party to the Convention by the time of the ninth session of the Group

paragraphs 14 and 19 of the terms of reference of the Mechanism. The Conference also requested the Group to hold intersessional meetings open to all States parties for the purpose of the drawing of lots in accordance with paragraph 19 of the terms of reference of the Mechanism and without prejudice to the right of a State party to request that the drawing of lots be repeated at the Group's subsequent intersessional meeting or regular session.

9. Accordingly, the reviewing States parties for the first year of the second cycle of the Mechanism were selected through a drawing of lots at an intersessional meeting of the Implementation Review Group. Twenty-nine country reviews began on 4 July 2016, and redraws were carried out at the request of States parties under review at the resumed seventh session of the Group.

10. Similarly, the reviewing States parties for the second year of the second cycle were selected through a drawing of lots at an intersessional meeting of the Group, and the 48 country reviews due to take place during that year started on 25 July 2017. Redraws were carried out at the request of States parties under review at the resumed eighth session of the Group.

C. Schedule and conduct of country reviews

11. In its resolution 4/1, the Conference of the States Parties to the United Nations Convention against Corruption endorsed the guidelines for governmental experts and the secretariat in the conduct of country reviews, which had been finalized by the Implementation Review Group. The guidelines set out indicative timelines for country reviews in order to ensure the consistency and efficiency of the review process. The purpose of the present subsection is to provide updated information on the schedule of country reviews conducted from the first to the fourth year of the first cycle of the Implementation Review Mechanism.

12. There were 27 country reviews in the first year, 41 in the second year and 35 in the third year. In the fourth year, 78 States parties were under review.

Initial steps of country reviews

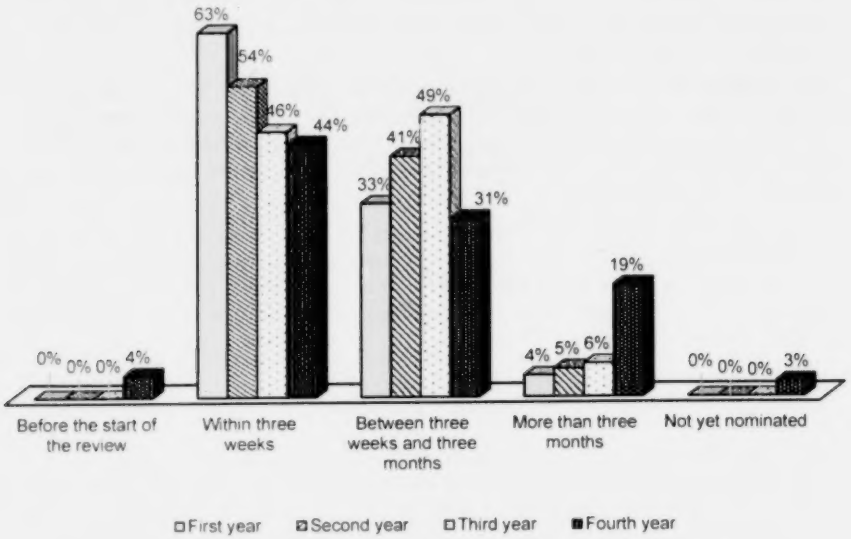
Appointment of a focal point to coordinate the participation of a State party under review

a. First review cycle

13. In accordance with paragraph 17 of the terms of reference and paragraph 13 of the guidelines, a State party under review is to appoint a focal point or focal points to coordinate its participation in the review within three weeks of officially being informed of the beginning of the conduct of the country review, and should inform the secretariat accordingly. Most States that have recently become party to the Convention nominated their focal points between three weeks and three months after being officially informed of the start of the review. However, late nominations of focal points have caused considerable delays in country reviews in the past. In its resolution 4/1, the Conference urged States parties under review to ensure the timely nomination of their focal points in accordance with the guidelines.

14. At the time of writing, one State under review in the fourth year had not yet officially nominated the focal point (see figure I), and several States parties had changed their focal points during the course of the review. Some States whose reviews had recently started or were about to begin, nominated their focal points prior to the start of the review, which allowed more preparation time.

Figure I
First cycle: time taken to nominate focal points



b. Second review cycle

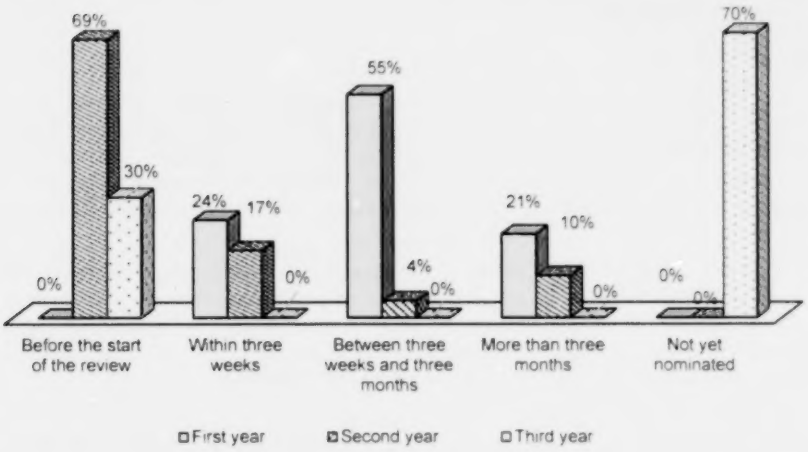
15. All States under review in the first and second years of the second cycle nominated their focal points. However, some nominations were received very late in the review year, thus considerably delaying some reviews (see figure II).

16. In the first year of the second cycle, most States nominated their focal points within three months after being officially informed of the start of the review.

17. In the second year of the second cycle, it is worth noting that the vast majority of focal points (69 per cent) were nominated prior to the start of the review. It is likely that these early nominations were due to the offer of early training courses targeting the focal points of States whose reviews were upcoming.

18. Although, at the time of writing, the third year of the second cycle had not yet started, 11 of the 37 States under review in that year (30 per cent) had already nominated their focal points, and more nominations were expected in the run-up to the ninth session of the Group. As with the second year, it is likely that these early nominations were a response to the offer of early training courses targeting focal points. In addition, in January 2018, to assist States parties with the planning for their upcoming reviews, the secretariat shared the anticipated start dates, the anticipated deadlines for the nomination of focal points and the anticipated deadlines for the submission of responses to the self-assessment checklist. The advance nomination of focal points is commended, in particular because it is likely to facilitate the preparation of the review and the drafting of the responses to the self-assessment checklist.

Figure II
First and second year of the second cycle: time taken to nominate focal points



Communication of contact details of governmental experts by reviewing States parties and organization of the initial teleconference

a. First review cycle

19. Paragraph 16 of the guidelines provides that a telephone conference or videoconference should be held within one month of the State party under review officially being informed of the beginning of the conduct of the country review. The teleconference involves the State party under review, the reviewing States parties and the secretariat staff assigned to the country review. With a view to organizing the initial teleconference, the secretariat requests reviewing States parties to designate contact persons among their governmental experts and to communicate the contact details of those persons to it.

20. In most reviews, the organization of the initial teleconference continues to suffer delays as a result of, inter alia, the late communication of the contact details of governmental experts or changes in reviewing experts after the beginning of the review. In some cases, the teleconference has been delayed because of redraws of reviewing States parties. Where feasible, the secretariat continues to arrange introductions on the margins of the sessions of the Implementation Review Group and the Conference of the States Parties. Where time differences between the States did not allow for direct contact, the teleconferences were replaced by an exchange of emails.

b. Second review cycle

21. At the time of writing, 27 first teleconferences had been held for the 29 reviews ongoing in the second year of the second cycle or had been replaced by meetings on the margins of the Conference of the States Parties or the Implementation Review Group, or an exchange of emails where the time difference did not allow for a teleconference.

22. For the second year of the second cycle, at the time of writing, 30 first teleconferences or equivalent contacts had taken place. However, several reviewing States had not yet designated their reviewing experts, thus delaying the first teleconference.

Self-assessment

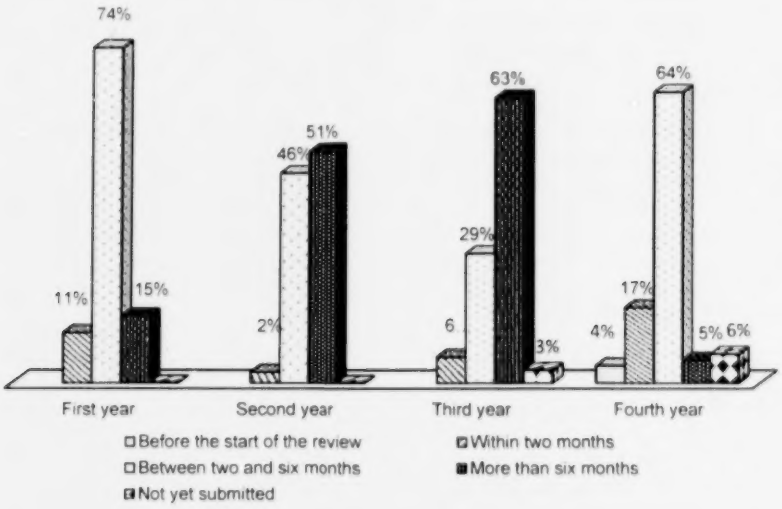
23. In accordance with paragraph 15 of the guidelines, the State party under review is to provide the secretariat with its response to the comprehensive self-assessment checklist within two months of being officially informed of the beginning of the conduct of the review.

a. First review cycle

24. All responses to the self-assessment checklist for the reviews initiated in the first and second year of the first review cycle have been received (see figure III for the time taken to submit the responses). For the 35 reviews initiated in the third year of the cycle, 1 response to the self-assessment checklist was pending at the time of writing and 4 were pending for the fourth year of the cycle (including of 2 States whose reviews started in November 2017).

25. Upon request, UNODC provides assistance in the completion of the responses to the self-assessment checklist. Several States parties decided to avail themselves of that assistance in order to complete their responses and, in accordance with paragraph 16 of the terms of reference, UNODC provided training and organized workshops to assist States parties in finalizing their responses.

Figure III
First review cycle: time taken to submit responses to the self-assessment checklist



Note: With regard to States parties under review during the fourth year of the first cycle, the higher percentage of States parties that submitted their responses to the self-assessment checklist more than six months after being officially informed of the review is partially a result of the fact that substantive work on some reviews started in the second half of the review year (i.e., in 2014 instead of in 2013), for instance in the case of new States parties.

26. Several States informed the secretariat of consultations with national stakeholders and the publication of responses to the comprehensive self-assessment checklist, while others had circulated their responses to relevant stakeholders and/or posted the responses on national websites for comment.

b. Second review cycle

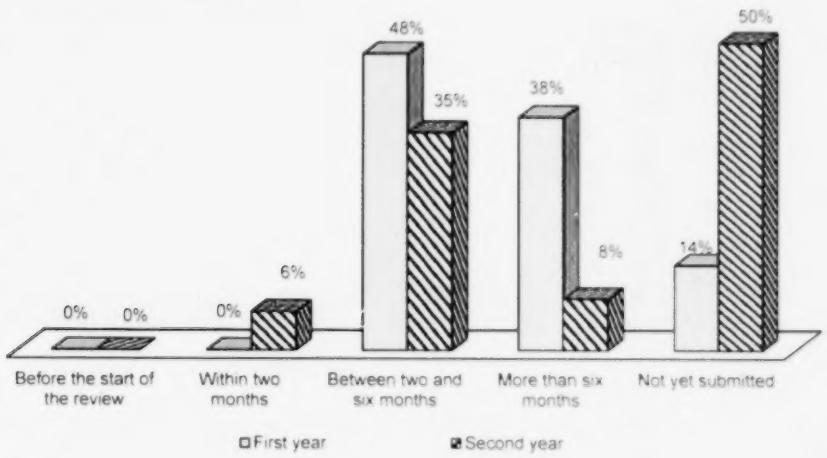
27. Out of 29 States parties under review in the first year of the second cycle, 25 had submitted their responses to the self-assessment checklist at the time of writing (see figure IV for the time taken to submit the responses). No State party under review

had submitted its response to the self-assessment checklist within the two months set out in the guidelines.

28. Out of 48 States parties under review in the second year of the second cycle, 24 had submitted their responses to the self-assessment checklist at the time of writing. Again, no State party under review had submitted its response to the self-assessment checklist within the time limit set out in the guidelines, and 50 per cent were yet to submit its response to the self-assessment checklist almost six months after the time limit had expired.

Figure IV

First and second year of the second review cycle: time taken to submit responses to the self-assessment checklist



Desk review

a. First review cycle

29. In accordance with paragraph 21 of the guidelines, governmental experts are to submit to the secretariat the outcome of the desk review within one month after receiving the response to the comprehensive self-assessment checklist and any supplementary information provided by the State party under review. For the fourth year of the first cycle, a small number of desk reviews of the responses to the self-assessment checklist were pending at the time of writing, in part because of late submissions of information and translation difficulties.

b. Second review cycle

30. At the time of writing, a number of desk reviews of the responses to the self-assessment checklist were still ongoing, in part because of the late submission of the responses to the self-assessment checklist.

Further means of direct dialogue

31. In accordance with paragraph 24 of the guidelines and paragraph 29 of the terms of reference, if requested by the State party under review, the desk review is to be complemented by any further means of direct dialogue, such as a country visit or a joint meeting at the United Nations Office at Vienna.

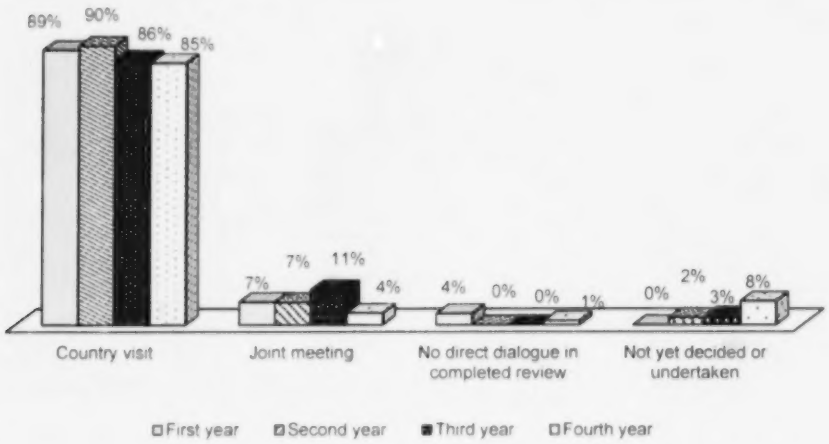
a. First review cycle

32. At the time of writing, out of 181 countries under review, 169 countries had already availed themselves of further means of direct dialogue in the form of either a country visit or a joint meeting. For the 27 States parties under review in the first year,

24 country visits and two joint meetings took place. For the 41 States parties under review in the second year, 37 country visits and three joint meetings took place. For the 35 States parties under review in the third year, 30 country visits and four joint meetings took place. For States under review in the fourth year, 66 country visits and 3 joint meetings took place (see figure V). Some other States had agreed to further means of direct dialogue, and such dialogues were in various stages of planning. In still other reviews, no decision had been taken yet. Among the completed first cycle reviews, only one State party had not opted for a form of direct dialogue.

Figure V

First review cycle: further means of direct dialogue between countries undertaken as part of a country review



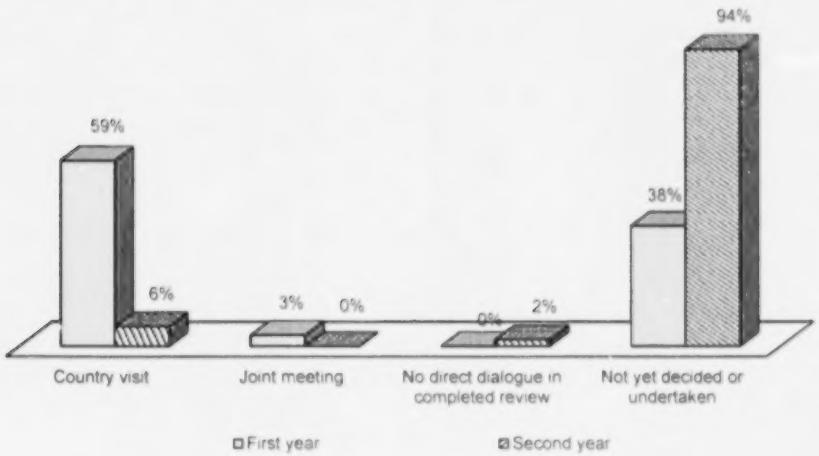
b. Second review cycle

33. At the time of writing, out of 29 States parties under review in the first year of the second cycle, 17 States parties had hosted a country visit as a further means of direct dialogue, and one had opted for a joint meeting in Vienna. Several other country visits were being scheduled (see figure VI).

34. At the time of writing, out of 48 States parties under review in the second year of the second cycle, 3 had hosted a country visit, and no joint meetings had been held. As for the first year of the second cycle, several other country visits were being scheduled.

Figure VI

First and second year of the second review cycle: further means of direct dialogue between countries undertaken as part of a country review



Preparation of the agenda for further means of direct dialogue

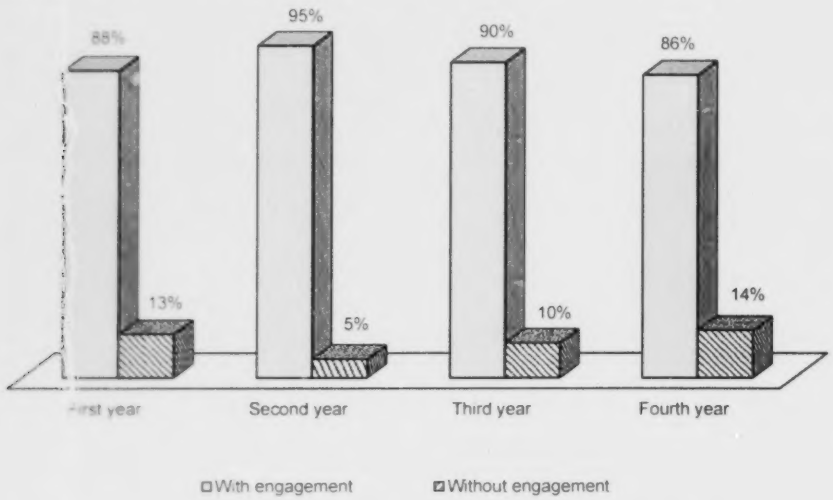
35. In accordance with paragraph 24 of the guidelines, a country visit is to be planned and organized by the State party under review. Focal points draft the agenda and submit it to the reviewers and the secretariat prior to the visit.

a. First review cycle

36. Out of all the country visits conducted, 89 per cent included meetings with other stakeholders (see figure VII), in accordance with paragraph 30 of the terms of reference. In some cases, those meetings took the form of panels that included representatives of civil society, the private sector, academia, trade associations and other national stakeholders. In other cases, States included national stakeholders such as representatives of academia, civil society and the private sector in the committees set up to coordinate and oversee the review process.

Figure VII

First review cycle: engagement with stakeholders during country visits, per review year



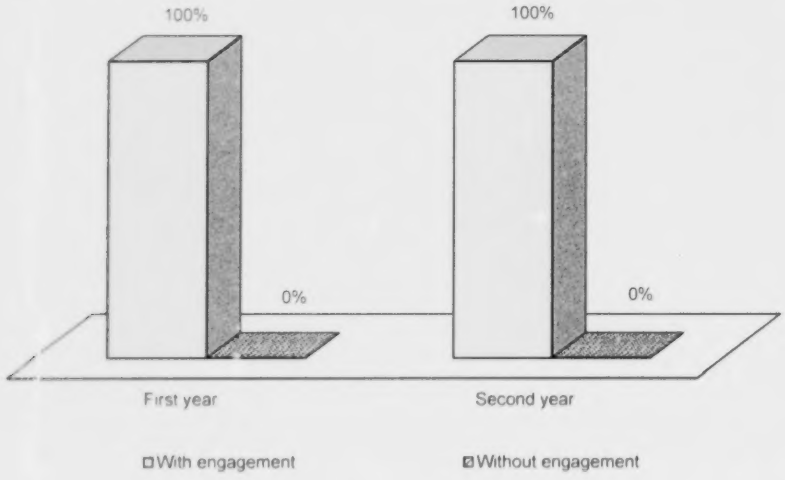
Note: The figures have been updated with additional information received for country visits conducted throughout the first review cycle. This accounts for the higher percentage of country visits that included meetings with other stakeholders than previously reported.

b. Second review cycle

37. At the time of writing, all 20 country visits conducted in the first and second years of the second cycle had included meetings with other stakeholders, in accordance with paragraph 30 of the terms of reference (see figure VIII).

Figure VIII

First and second year of the second review cycle: engagement with stakeholders during country visits, per review year



Outcome of the country review process, publication of the country review report and review languages

38. In accordance with paragraph 33 of the terms of reference and paragraph 30 of the guidelines, the reviewing governmental experts are to prepare a country review report and an executive summary of that report, in close cooperation and coordination with the State party under review and assisted by the secretariat. Successes, good practices and challenges should be identified in the report, and the report should contain observations on the implementation of the Convention. Where appropriate, technical assistance needs for the purpose of improving the implementation of the Convention should also be identified in the report.

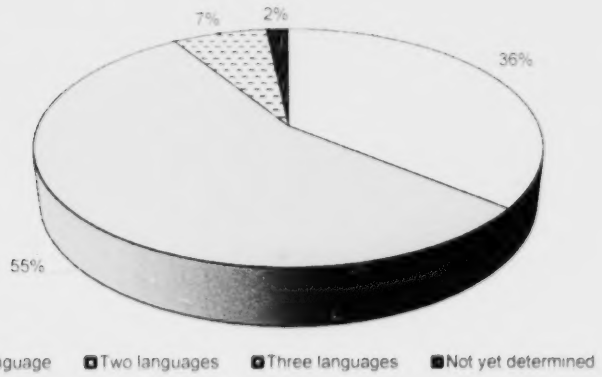
a. First review cycle

39. A total of 163 executive summaries and 141 country reports had been completed at the time of writing; of those, 27 executive summaries had been completed and made available to the Implementation Review Group for the reviews in the first year. For the second year, 40 executive summaries had been completed and made available to the Group. For the third year, 34 executive summaries had been completed and made available to the Group. For the fourth year, 62 executive summaries had been completed and made available and several more were being finalized.

40. The executive summaries of the country review reports have been placed online on the page with documentation of the Implementation Review Group and on the country profile page (http://www.unodc.org/unodc/en/treaties/CAC/country-profile/index.html). At the time of writing, 79 States parties had requested publication of the full country review reports for the first cycle. Depending on the language and the number of annexes, the length of the reports ranged from approximately 100 pages to over 500 pages.[3]

41. While in some cases governmental experts agreed to conduct the review in a language other than their preferred one, most reviews were conducted in more than one official language of the United Nations. Out of 181 reviews, 65 were carried out in one official language, 100 were carried out in two official languages and 13 were carried out in three official languages. In 3 cases, the decision what language or languages to be used was yet to be taken (see figure IX).

Figure IX
First review cycle: number of official languages of the United Nations used per country review



b. Second review cycle

42. At the time of writing, for the first year of the second cycle, 7 executive summaries and 4 country review reports had been completed, while for the second

[3] For details on the translation costs, see CAC/COSP/IRG/2016/3.

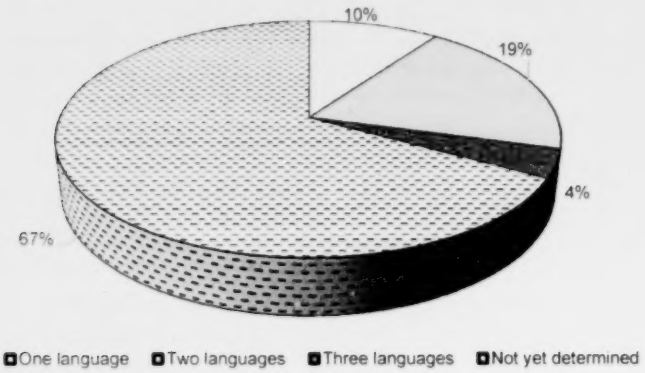
year of the second cycle, no executive summary or country review reports had been completed, in part because of the delays incurred in the submission of the responses to the self-assessment checklist and the organization of the country visits.

43. In the first year of the second review cycle, 9 reviews were carried out in one official language of the United Nations, 16 in two official languages and 3 in three official languages. For one review, the decision on the language of the review was still pending (see figure X).

44. In the second year of the second review cycle, 9 reviews were carried out in one official language of the United Nations, 19 in two official languages and 4 in three official languages. For 16 reviews, the decision on the language of the review had not yet been taken.

Figure X

First and second year of the second review cycle: number of official languages of the United Nations used per country review



United Nations CAC/COSP/IRG/2018/4

Conference of the States Parties to the United Nations Convention against Corruption

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Implementation Review Group
Ninth session
Vienna, 4–6 June 2018
Item 5 of the provisional agenda*
Financial and budgetary matters

Resources and expenditures for the functioning of the Mechanism for the Review of Implementation of the United Nations Convention against Corruption

Note by the Secretariat

I. Introduction

1. The present note contains budgetary information on expenditures incurred so far for the operation of the first and second cycles of the Mechanism for the Review of Implementation of the United Nations Convention against Corruption, resources received both from the regular budget and from voluntary contributions, projected expenditures and the current shortfall on resource requirements for the functioning of the Mechanism.

II. Regular budget resources and expenditures for the Implementation Review Mechanism

2. Tables 1, 2, 3, 4 and 5 present regular budget resources and expenditures for the bienniums 2010–2011, 2012–2013, 2014–2015, 2016–2017 and 2018–2019, respectively.

* CAC/COSP/IRG/2018/1

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Table 1

Regular budget resources and expenditures for the Implementation Review Mechanism in the biennium 2010–2011

(United States dollars)

Budgetary item	*Budget, 2010–2011 (final)*	*Expenditures, 2010–2011*
Posts and related general operating expenses		
Posts (1 D-1, 1 P-5, 2 P-4, 1 P-3, 3 P-2 and 1 General Service (Other level)), net of staff assessment[a]	1 458 600	1 474 100
Computer maintenance ($1,300 per staff member per year)	23 400	23 400
Communications costs ($1,500 per staff member per year)	27 000	27 000
Subtotal	**1 509 000**	**1 524 500**
Implementation Review Group		
Interpretation (20 meetings per year, 6 languages) and conference servicing[b]	465 600	351 300
Translation of documentation (100 pages per year, 6 languages)[c]	472 900	534 900
Subtotal	**938 500**	**886 200**
Total	**2 447 500**	**2 410 700**

[a] For the biennium 2010–2011, posts were budgeted as new posts, taking into account delays in recruitment. The over-expenditure was reported in the context of the second performance report of the regular budget for the biennium 2010–2011.

[b] Interpretation was provided for a total of 34 meetings. Thus, the final expenditure was less than the estimate.

[c] Translation was provided for a total of 268 pages of documentation for the first, resumed first, second and resumed second sessions of the Implementation Review Group. The Conference Management Service of the United Nations Office at Vienna was able to cover the additional expenditures for translation of documentation in the reporting period through the reallocation of existing translation resources under Section 2 of the approved regular budget. At the same time, owing to delays in the country reviews and in the finalization of the country reports and the related executive summaries, several such reports were presented to the Group as conference room papers, for which no translation was provided.

Table 2

Regular budget resources and expenditures for the Implementation Review Mechanism in the biennium 2012–2013

(United States dollars)

Budgetary item	*Budget, 2012–2013*	*Expenditures, 2012–2013*
Posts and related general operating expenses		
Posts (1 D-1, 1 P-5, 2 P-4, 1 P-3, 3 P-2 and 1 General Service (Other level)) (continuing posts), net of staff assessment[a]	2 497 800	2 497 000
Computer maintenance	26 400	35 100
Communications costs	30 000	30 000
Subtotal	**2 554 200**	**2 562 100**
Implementation Review Group		
Interpretation (20 meetings per year, 6 languages) and conference servicing[b]	461 400	317 000
Translation of documentation (100 pages per year, 6 languages)[c]	401 600	2 569 400
Subtotal	**863 000**	**2 886 400**
Total	**3 417 200**	**5 448 500**

[a] In this table, posts are costed as continuing posts.

[b] Interpretation was provided for a total of 28 meetings in the biennium 2012–2013.

[c] Translation was provided for a total of 1,340 pages of documentation for the third, resumed third, fourth and resumed fourth sessions of the Implementation Review Group in 2012 and 2013. The Conference Management Service of the United Nations Office at Vienna was able to cover the additional expenditures for translation of documentation in the reporting period through the reallocation of existing translation resources under Section 2 of the approved regular budget. At the same time, owing to delays in the country reviews and in the finalization of the country reports and the related executive summaries, several such reports were presented to the Group as conference room papers, for which no translation was provided.

Table 3

Regular budget resources and expenditures for the Implementation Review Mechanism in the biennium 2014–2015

(United States dollars)

Budgetary item	*Budget, 2014–2015*	*Expenditures, 2014–2015*
Posts and related general operating expenses		
Posts (1 D-1, 1 P-5, 2 P-4, 1 P-3, 3 P-2 and 1 General Service (Other level)) (continuing posts), net of staff assessment[a]	2 634 400	2 320 800
Computer maintenance	26 300	17 700
Communications costs	30 000	23 800
Subtotal	**2 690 700**	**2 362 300**
Implementation Review Group		
Interpretation (16 meetings per year, 6 languages) and conference servicing[b]	388 800	302 800
Translation of documentation (100 pages per year, 6 languages)[c]	361 400	1 440 000
Subtotal	**750 200**	**1 742 800**
Total	**3 440 900**	**4 105 100**

[a] In this table, posts are costed as continuing posts.

[b] Interpretation was provided for a total of 25 meetings in the biennium 2014–2015 (7 meetings for the fifth session, in June 2014, 6 meetings for the resumed fifth session, in October 2014, 10 meetings for the sixth session, in June 2015, and 2 meetings for the resumed sixth session, in November 2015).

[c] Translation was provided for a total of 797 pages of documentation for the fifth session, in June 2014, the resumed fifth session, in October 2014, the sixth session, in June 2015, and the resumed sixth session, in November 2015, of the Implementation Review Group. The Conference Management Service of the United Nations Office at Vienna was able to cover the additional expenditures for translation of documentation in the reporting period through the reallocation of existing translation resources under Section 2 of the approved regular budget.

Table 4

Regular budget resources and expenditures for the Implementation Review Mechanism in the biennium 2016–2017

(United States dollars)

Budgetary item	*Budget, 2016–2017*	*Expenditures, 2016–2017*
Posts and related general operating expenses		
Posts (1 D-1, 1 P-5, 2 P-4, 1 P-3, 3 P-2 and 1 General Service (Other level)) (continuing posts), net of staff assessment[a]	2 341 800	2 479 800
Computer maintenance	31 000	31 000
Communications costs	30 000	30 000
Subtotal	**2 402 800**	**2 540 800**
Implementation Review Group		
Interpretation (16 meetings per year, 6 languages) and conference servicing[b]	405 000	329 000
Translation of documentation (300 pages per year, 6 languages)[c]	1 084 000	3 776 300
Subtotal	**1 489 000**	**4 105 300**
Total	**3 891 800**	**6 646 100**

[a] In this table, posts are costed as continuing posts.

[b] Interpretation was provided for four meetings in June 2016, three meetings in November 2016 for the seventh session of the Implementation Review Group, five meetings in June 2017 for the eighth session of the Implementation Review Group and two meetings in November 2017 for the resumed eighth session of the Implementation Review Group.

[c] Translation was provided for a total of 317 pages of documentation in June 2016, 1,140 pages of documentation in November 2016 for the seventh session of the Implementation Review Group, 238 pages of documentation in June 2017 for the eighth session of the Implementation Review Group and 395 pages of documentation in November 2017 for the resumed eighth session of the Implementation Review Group. The higher number of pages was due to the high number of completed executive summaries of country review reports. While the

budget for the translation of documentation was based on the assumption that 160 countries in total would be reviewed under the first cycle, the actual number of countries being reviewed under the first cycle had grown to 181 as at 31 December 2017, since more countries ratified or acceded to the Convention than forecast in 2009. The Conference Management Service of the United Nations Office at Vienna was able to cover the additional expenditures for translation of documentation in the reporting period through the reallocation of existing translation resources under Section 2 of the approved regular budget. At the same time, owing to delays in the country reviews and in the finalization of the country reports and the related executive summaries, several such reports were presented to the Group as conference room papers, for which no translation was provided.

Table 5

Regular budget resources and expenditures for the Implementation Review Mechanism in the biennium 2018–2019

(United States dollars)

Budgetary item	*Initial budget, 2018–2019*	*Expenditures as at 28 February 2018*
Posts and related general operating expenses		
Posts (1 D-1, 1 P-5, 2 P-4, 1 P-3, 3 P-2 and 1 General Service (Other level) (continuing posts), 1 P-4, 2 P-3 (new posts)), net of staff assessment[a]	2 970 100	285 800
Computer maintenance	44 000	7 300
Communications costs	41 100	6 900
Subtotal	**3 055 200**	**300 000**
Implementation Review Group		
Interpretation (16 meetings per year, 6 languages) and conference servicing	405 000	-
Translation of documentation (300 pages per year, 6 languages)	1 108 200	-
Subtotal	**1 513 200**	**-**
Total	**4 568 400**	**300 000**

[a] In this table, the nine posts that were authorized in previous bienniums are costed as continuing posts and the three posts (1 P-4, 2 P-3) that were approved by the General Assembly in December 2017 are costed as new posts.

III. Extrabudgetary estimates and expenditures for the first cycle of the Implementation Review Mechanism

3. Table 6 presents the final extrabudgetary expenditures for the first year of the Implementation Review Mechanism. Tables 7, 8, 9 and 10 present estimates and interim extrabudgetary expenditures for the second, third, fourth and fifth years, respectively, for the operation of the first cycle of the Mechanism. The estimates for the fourth and fifth years have been partially revised. With respect to the fourth year, the estimates for training haven been reduced; with respect to the fifth year, the estimates for additional posts (1 P-3, 1 General Service (Other level)) and the related computer maintenance and communications costs have been aligned with the expenditures, which can be considered as final for those items. In total, the estimates for the completion of the first cycle have been reduced by $35,300.

Table 6

Final extrabudgetary expenditures for the first year of the first cycle of the Implementation Review Mechanism[a]

(United States dollars)

Budgetary item	*Final expenditures for the first year*
Travel of participants for country visits and joint meetings	607 500
Translation of working documentation	303 000

Budgetary item	*Final expenditures for the first year*
Participation of least developed countries in the sessions of the Implementation Review Group	185 900
Training of governmental experts	275 200
Consultants	99 900
Total	**1 471 500**

[a] The first year of the Mechanism started in June 2010. Expenditures reported under the first year relate to activities undertaken with regard to the first group of 27 countries under review.

Table 7

Estimates and interim extrabudgetary expenditures for the second year of the first cycle of the Implementation Review Mechanism[a]

(United States dollars)

Budgetary item	*Interim expenditures for the second year as at 28 February 2018*	*Estimates for the second year*
Travel of participants for country visits and joint meetings	753 000	758 200
Translation of working documentation	432 300	470 500
Participation of least developed countries in the sessions of the Implementation Review Group	287 000	287 000
Training of governmental experts	454 600	454 600
Additional posts (1 P-3, 1 General Service (Other level))[b]	36 800	36 800
Computer maintenance and communications costs	1 800	1 800
Total	**1 965 500**	**2 008 900**

[a] The second year of the Mechanism started in June 2011. Expenditures reported under the second year relate to activities undertaken with regard to the second group of 41 countries under review.

[b] Expenditure reported covers only the salary costs of the new General Service (Other level) post for the period from January to May 2012, since the new Crime Prevention and Criminal Justice Officer (P-3) started in November 2012.

Table 8

Estimates and interim extrabudgetary expenditures for the third year of the first cycle of the Implementation Review Mechanism[a]

(United States dollars)

Budgetary item	*Interim expenditures for the third year as at 28 February 2018*	*Estimates for the third year*
Travel of participants for country visits and joint meetings	609 100	632 600
Translation of working documentation	420 100	426 100
Participation of least developed countries in the sessions of the Implementation Review Group	251 700	251 700
Training of governmental experts	490 200	490 200
Additional posts (1 P-3, 1 General Service (Other level))[b]	174 900	174 900
Computer maintenance and communications costs	7 100	7 100
Total	**1 953 100**	**1 982 600**

[a] The third year of the Mechanism started in June 2012. Expenditures reported under the third year relate to activities undertaken with regard to the third group of 35 countries under review.

[b] Expenditure reported covers the salary costs of the General Service (Other level) post for the period from June 2012 to May 2013 and of the new Crime Prevention and Criminal Justice Officer (P-3) post for the period from November 2012 to May 2013.

Table 9

Estimates and interim extrabudgetary expenditures for the fourth year of the first cycle of the Implementation Review Mechanism[a]

(United States dollars)

Budgetary item	*Interim expenditures for the fourth year as at 28 February 2018*	*Revised estimates for the fourth year*
Travel of participants for country visits and joint meetings	1 063 600	1 233 800
Translation of working documentation	716 200	933 500
Participation of least developed countries in the sessions of the Implementation Review Group	290 500	290 500
Training of governmental experts	387 400	415 000
Additional posts (1 P-3, 1 General Service (Other level))[b]	267 500	267 500
Computer maintenance and communications costs	7 600	7 600
Total	**2 732 800**	**3 147 900**

[a] The fourth year of the Mechanism started in June 2013. Expenditures reported under the fourth year relate to activities undertaken with regard to the fourth group of 78 countries under review. The fourth group of countries includes those that were part of the fourth group in June 2013 and those that have ratified or acceded to the Convention since June 2013.

[b] Expenditure reported covers the salary costs of the General Service (Other level) post and of the Crime Prevention and Criminal Justice Officer (P-3) post for the period from June 2013 to May 2014.

Table 10

Estimates and interim extrabudgetary expenditures for the fifth year of the first cycle of the Implementation Review Mechanism[a]

(United States dollars)

Budgetary item	*Final expenditures for the fifth year as at 28 February 2018*	*Revised estimates for the fifth year*
Participation of least developed countries in the sessions of the Implementation Review Group	522 000	522 000
Additional posts (1 P-3, 1 General Service (Other level))[b]	962 100	962 100
Computer maintenance and communications costs	24 300	24 300
Total	**1 508 400**	**1 508 400**

[a] The fifth year started on 1 June 2014. Expenditures with regard to staff and sessions of the Group incurred since the beginning of the fifth year are reported under the fifth year. Expenditures that relate to training provided in relation to country reviews after 31 May 2014 are reported under the fourth year of the Implementation Review Mechanism. Other expenditures that relate to the second, third or fourth group of countries under review are reported under the second, third and fourth year of the Implementation Review Mechanism, respectively. Expenditures that relate to countries that have ratified the Convention since June 2014 are reported under the fourth year of the Implementation Review Mechanism.

[b] Expenditure reported covers the salary costs of the General Service (Other level) post and of the Crime Prevention and Criminal Justice Officer (P-3) post for the period from June 2014 to December 2017.

IV. Estimates for the second cycle of the Implementation Review Mechanism

4. Tables 11 and 12 show the revised estimated financial requirements for the operation of the first and second years of the second cycle. For ease of reference, the previous estimates, which were based on the projected costs for the first two years of the second cycle of the Mechanism as presented and explained in greater detail in annex I to the report of the Conference of the States Parties on its sixth session (CAC/COSP/2015/10), are listed next to the revised estimates. Both the previous and the revised estimates are based on the actual number of countries, which are being

reviewed respectively under the first and second years of the second cycle of the Implementation Review Mechanism.

Table 11

Estimates[a] and interim expenditures[b] for the first year of the second cycle of the Implementation Review Mechanism

(United States dollars)

Budgetary item	*Interim expenditures for the first year as at 28 February 2018*	*Previous estimates for the first year (based on CAC/COSP/2015/10, annex I)*	*Revised estimates for the first year as at 28 February 2018*
Travel of participants for country visits and joint meetings	214 500	652 900	379 600
Translation of working documentation	152 500	472 700	363 700
Participation of least developed countries in two sessions of the Implementation Review Group	309 500	280 800	309 500
Training of governmental experts	409 800	468 100	409 800
Travel of experts of the United Nations Office on Drugs and Crime to provide targeted assistance in countries under review	58 300	58 600	58 300
Additional posts (1 P-4, 2 P-3)	313 300	570 800	313 300
Computer maintenance and communications costs	7 900	22 600	7 900
Total	**1 465 800**	**2 526 500**	**1 842 100**

[a] The previous estimates (based on CAC/COSP/2015/10, annex I) covered the projected operational expenditures for conducting 29 country reviews and the salary costs for three Crime Prevention and Criminal Justice Officers (1 P-4, 2 P-3) for the period from 1 July 2016 to 30 June 2017. The estimate included the estimated costs of the participation of delegates from least developed countries in the seventh session (June 2016) and the resumed seventh session (November 2016) of the Group. The revised estimates for travel of participants for country visits and joint meetings are based on the actual expenditures for 18 country visits and the projected resource requirements for 11 country visits or joint meetings. The projection is based on the assumption that the cost-saving measures, which have already been applied to the 18 country visits (which took place until 28 February 2018), will continue to be applied. Similarly, the revised estimates for the translation of working documentation are based on the assumption that the cost-saving measures will continue to be applied. The revised estimates for (a) the participation of least developed countries in the sessions of the Implementation Review Group, (b) the training of governmental experts, (c) the travel of UNODC experts to provide targeted assistance in countries under review, (d) additional posts (1 P-4, 2 P-3) and (e) computer maintenance and communications costs have been aligned with the interim expenditures, which can be considered as final for those items.

[b] The first year of the second cycle of the Mechanism started in June 2016. Expenditures reported under the first year relate to activities undertaken with regard to the first group of 29 countries under review, as well as training activities and travel of UNODC experts to provide targeted assistance in countries under review until 31 June 2017. Furthermore, one Crime Prevention and Criminal Justice Officer (P-4) for the period from July 2016 to June 2017, one Crime Prevention and Criminal Justice Officer (P-3) for the period from August 2016 to June 2017 and one Crime Prevention and Criminal Justice Officer (P-3) for the period from April 2017 to June 2017, working in support of the second cycle, are covered by the funds of the first year of the second cycle.

Table 12

Estimates[a] and interim expenditures[b] for the second year of the second cycle of the Implementation Review Mechanism

(United States dollars)

Budgetary item	*Interim expenditures for the second year as at 28 February 2018*	*Previous estimates for the second year (based on CAC/COSP/2015/10, annex I)*	*Revised estimates for the second year as at 28 February 2018*
Travel of participants for country visits and joint meetings	12 400	1 080 600	702 860
Translation of working documentation	30 200	782 400	601 900
Participation of least developed countries in two sessions of the Implementation Review Group	243 100	280 900	243 100
Training of governmental experts	7 100	468 100	350 000
Travel of experts of the United Nations Office on Drugs and Crime to provide targeted assistance in countries under review	18 700	58 500	58 500
Additional posts (1 P-4, 2 P-3)	207 400	583 200	207 400
Computer maintenance and communications costs	5 100	22 600	5 100
Total	**524 000**	**3 276 300**	**2 168 800**

[a] The previous estimates for the second year of the second cycle (based on CAC/COSP/2015/10, annex I) covered the projected operational expenditures for conducting 48 country reviews and the salary costs of three Crime Prevention and Criminal Justice Officers (1 P-4, 2 P-3) for the period from 1 July 2017 to 30 June 2018. The estimate included the estimated costs of the participation of delegates from least developed countries in the eighth session (June 2017) and the resumed eighth session (November 2017) of the Group. The revised estimates for travel of participants for country visits and joint meetings are based on the actual expenditures for 2 country visits and the projected resource requirements for 46 country visits or joint meetings. The projection is based on the assumption that the cost-saving measures, which have already been applied to the two country visits (which took place until 28 February 2018) will continue to be applied. Similarly, the revised estimates for the translation of working documentation are based on the assumption that the cost-saving measures will continue to be applied. The revised estimates for training of governmental experts take into account upcoming training activities that will be completed before 31 June 2018. The revised estimates for (a) the participation of least developed countries in the sessions of the Implementation Review Group, (b) additional posts (1 P-4, 2 P-3) and (c) computer maintenance and communications costs have been aligned with the interim expenditures, which can be considered as final for those items.

[b] The second year of the second cycle of the Mechanism started in June 2017. Expenditures reported under the second year relate to activities undertaken with regard to the second group of 48 countries under review, as well as training activities and travel of UNODC experts to provide targeted assistance in countries under review between 1 July 2017 and 28 February 2018. One Crime Prevention and Criminal Justice Officer (P-4) and one Crime Prevention and Criminal Justice Officer (P-3), both from July to December 2017, and one Associate Crime Prevention and Criminal Justice Officer (P-2) from September to December 2017 working in support of the second cycle, are covered by the funds of the second year of the second cycle.

5. Tables 13 and 14 outline the estimated financial requirements for the operation of the third and fourth years of the second cycle. The projections are based on the assumption that the cost-saving measures, which are currently in place, will continue to be applied. Accordingly, the assumption is that the average costs in relation to the travel of participants per country visit or joint meeting will be reduced by 33 per cent and the average costs in relation to the translation of working documentation per country under review will be reduced by 22 per cent. Furthermore, the projected costs for conducting training for governmental experts have been lowered on the basis of the experience of the first two years of the second cycle. The projected costs of the participation of representatives from least developed countries in two sessions of the Implementation Review Group per year were increased slightly owing to the increased number of least developed countries that are States parties to the Convention (44 at the time of writing), whereas the projected costs for travel of

UNODC experts to provide targeted assistance in countries under review has been maintained at the same level as for the first two years of the second cycle. The projected costs no longer include any costs for the 1 P-4 and 2 P-3 staff members or related computer maintenance and communication costs, since those costs are covered by the regular budget as of 1 January 2018.

Table 13
Estimates[a] for the third year of the second cycle of the Implementation Review Mechanism

(United States dollars)

Budgetary item	*Estimates for the third year*
Travel of participants for country visits and joint meetings	555 300
Translation of working documentation	464 000
Participation of least developed countries in two sessions of the Implementation Review Group	311 000
Training of governmental experts	352 000
Travel of experts of the United Nations Office on Drugs and Crime to provide targeted assistance in countries under review	58 500
Total	**1 740 800**

[a] The third year of the second cycle of the Mechanism starts in June 2018. The projected estimates for travel of participants for country visits and joint meetings as well as translation of working documentation are based on 37 countries.

Table 14
Estimates[a] for the fourth year of the second cycle of the Implementation Review Mechanism

(United States dollars)

Budgetary item	*Estimates for the fourth year*
Travel of participants for country visits and joint meetings	540 300
Translation of working documentation	451 400
Participation of least developed countries in two sessions of the Implementation Review Group	311 000
Training of governmental experts	352 000
Travel of experts of the United Nations Office on Drugs and Crime to provide targeted assistance in countries under review	58 500
Total	**1 713 200**

[a] The fourth year of the second cycle of the Mechanism will start in June 2019. The projected estimates for travel of participants for country visits and joint meetings as well as translation of working documentation are based on 36 countries.

V. Resource requirements for the functioning of the Implementation Review Mechanism, extrabudgetary contributions received and funding shortfall

6. As requested by the Implementation Review Group at its resumed eighth session, the secretariat reviewed and revised the cost projections for the first two years of the second cycle of the Mechanism. As shown in table 15, the projected extrabudgetary resource requirements for the functioning of the first two years of the second cycle of the Implementation Review Mechanism have been reduced as a result of the instituted cost-saving measures, assuming that the cost-saving measures will continue to be applied, as well as the decision by the General Assembly to establish three additional regular budget posts as at 1 January 2018.

Table 15

Comparison of the revised extrabudgetary resource requirements with the previous estimates for the functioning of the first two years of the second cycle of the Implementation Review Mechanism

(United States dollars)

	Previous estimates (based on CAC/COSP/2015/10, annex I)	*Revised estimates as at 28 February 2018*	*Difference*
First year (29 countries under review)	2 526 500	1 842 100	684 400
Second year (48 countries under review)	3 276 300	2 168 800	1 107 500
First and second year	**5 802 800**	**4 010 900**	**1 791 900**

7. The limitation of the provision of funding to cover travel and related costs of only one participant per reviewing country from least developed countries, low-income and lower middle-income countries represents a cost-saving measure and has a significant impact on the overall extrabudgetary resource requirements. Table 16 compares two scenarios. Scenario A is based on the assumption that this measure would continue to be applied, while scenario B assumes that this measure would be lifted. As reflected in the previous tables, the secretariat based its projections for the first four years of the second cycle on scenario A.

Table 16

Projected impact of maintaining or lifting travel-related cost-saving measures

(United States dollars)

	Number of facilitated direct dialogues	*Interim expenditures*	*Number of upcoming direct dialogues*	*Cost projection saving measures continue (scenario A)*	*Cost projection saving measures lifted (scenario B)*	*Total number of direct dialogues*	*Total for scenario A (d = a + b)*	*Total for scenario B (e = a + c)*	*Difference between scenarios A and B (f = e-d)*
		(a)		*(b)*	*(c)*		*(d)*	*(e)*	*(f)*
Year 1	18	214 500	11	165 100	247 700	29	379 600	462 200	82 600
Year 2	2	12 400	46	690 400	1 035 600	48	702 800	1 048 000	345 200
Year 3			37	555 300	833 000	37	555 300	833 000	277 700
Year 4			36	540 300	810 400	36	540 300	810 400	270 100
Year 5			31	465 300	697 900	31	465 300	697 900	232 600
Total (all years)	**20**	**226 900**	**161**	**2 416 400**	**3 624 600**	**181**	**2 643 300**	**3 851 500**	**1 208 200**

8. The decision of the General Assembly to establish three additional regular budget posts as at 1 January 2018 in support of the second cycle of the Implementation Review Mechanism contributes to reducing the overall costs of the Mechanism, as they are not subject to the mandatory provisions that apply to extrabudgetary contributions (13 per cent programme support cost and 9 per cent after-service health insurance).

9. As shown in tables 17 and 18, a total of $14,229,600 in voluntary contributions was received from Australia, Austria, Brazil, Canada, China, France, Germany, Italy, Japan, Liechtenstein, Mexico, Morocco, the Netherlands, Norway, Oman, Panama, Qatar, the Russian Federation, Saudi Arabia, Sweden, Switzerland, Turkey, the United Kingdom of Great Britain and Northern Ireland, the United States of America and the United Nations Development Programme (UNDP) between 2010 and 2017. In-kind contributions have also been provided by Angola, Argentina, Armenia, Austria, the Bahamas, Bahrain, Benin, Botswana, Brazil, Bhutan, Burkina Faso, Cabo Verde, Cameroon, China, Colombia, the Dominican Republic, Ecuador, Egypt, Fiji, Gabon,

Granada, Greece, India, Israel, Italy, Kazakhstan, Kenya, Kiribati, Liechtenstein, Madagascar, Malaysia, Mauritania, Morocco, Mozambique, Nepal, Qatar, Oman, Papua New Guinea, Portugal, the Russian Federation, Saudi Arabia, Senegal, Singapore, Solomon Islands, Swaziland, Tajikistan, Turkey, the United Arab Emirates, Uzbekistan and Vanuatu.

Table 17

Extrabudgetary contributions to the Implementation Review Mechanism, as at 28 February 2018

(United States dollars)

	All years	*2010*	*2011*	*2012*	*2013*	*2014*	*2015*	*2016*	*2017*
Extrabudgetary contributions	**14 229 600**	**1 999 600**	**2 711 000**	**2 094 500**	**2 085 900**	**2 031 100**	**392 600**	**814 900**	**2 100 000**

Table 18

Extrabudgetary contributors to the Implementation Review Mechanism, as at 28 February 2018

	Extrabudgetary contributors
2010	Canada, France, Germany, Mexico, Netherlands, Norway, Sweden, United Kingdom, United States, UNDP
2011	Australia, Austria, Brazil, Canada, France, Norway, Qatar, Russian Federation, Sweden, Switzerland, United States
2012	Australia, France, Mexico, Norway, Sweden, United States
2013	Australia, France, Italy, Mexico, Morocco, Norway, Qatar, Russian Federation, Sweden, Switzerland, United States
2014	Australia, France, Norway, Oman, Panama, Russian Federation, Saudi Arabia, Sweden, United Kingdom, United States
2015	Australia, France, Mexico, Morocco, Sweden, Turkey, United States
2016	France, Japan, Mexico, Morocco, Norway, Qatar, Russian Federation, Sweden, United States
2017	Austria, Canada, China, France, Germany, Italy, Japan, Liechtenstein, Mexico, Panama, Qatar, Russian Federation, Sweden, United States

10. As shown in table 19, the voluntary contributions received so far cover the costs for the operation of the first cycle and of the first two years of the second cycle of the Implementation Review Mechanism. A funding shortfall remains with regard to the third and fourth years of the second cycle.

Table 19

Extrabudgetary resource requirements for the functioning of the Implementation Review Mechanism, contributions received and funding shortfall, as at 28 February 2018

(United States dollars)

	Total estimated requirements	*Requirements covered by extrabudgetary contributions*	*Shortfall*
First cycle			
All years	10 119 300	10 119 300	0
Second cycle			
First year	1 842 100	1 842 100	0
Second year	2 168 800	2 168 800	0
Third year	1 740 800	99 400	1 641 400
Fourth year	1 713 200	0	1 713 200
First, second, third and fourth years	**7 464 900**	**4 110 300**	**3 354 600**

Annex

Interim statement of regular budget expenditures for the functioning of the Mechanism

(United States dollars)

Budgetary item	*Biennium 2010–2011*	*Biennium 2012–2013*	*Biennium 2014–2015*	*Biennium 2016–2017*	*Biennium 2018–2019*
Posts and related general operating expenses					
Posts (1 D-1, 1 P-5, 2 P-4, 1 P-3, 3 P-2 and 1 General Service (Other level))	1 474 100	2 497 000	2 320 800	2 479 800	285 800
Computer maintenance	23 400	35 100	17 700	31 000	7 300
Communications	27 000	30 000	23 800	30 000	6 900
Subtotal	**1 524 500**	**2 562 100**	**2 362 300**	**2 540 800**	**300 000**
Implementation Review Group					
Interpretation	351 300	317 000	302 800	329 000	-
Translation of documentation	534 900	2 569 400	1 440 000	3 776 300	-
Subtotal	**886 200**	**2 886 400**	**1 742 800**	**4 105 300**	-
Total	**2 410 700**	**5 448 500**	**4 105 100**	**6 646 100**	**300 000**

Interim statement of extrabudgetary expenditures for functioning of the first cycle of the Mechanism

(United States dollars)

Budgetary item	*Expenditures for the first year*	*Expenditures for the second year*	*Expenditures for the third year*	*Expenditures for the fourth year*	*Expenditures for the fifth year*	*Expenditures for all years*
Travel of participants for country visits and joint meetings	607 500	753 000	609 100	1 063 600	-	3 033 200
Translation of working documentation	303 000	432 300	420 100	716 200	-	1 871 600
Participation of least developed countries in the sessions of the Implementation Review Group	185 900	287 000	251 700	290 500	522 000	1 537 100
Training of governmental experts	275 200	454 600	490 200	387 400	-	1 607 400
Consultants	99 900	-	-	-	-	99 900
1 P-3 post and 1 General Service (Other level) post	-	36 800	174 900	267 500	962 100[b]	1 441 300
Computer maintenance and communications costs	-	1 800	7 100	7 600	24 300	40 800
Total	**1 471 500**	**1 965 500**	**1 953 100**	**2 732 800**	**1 508 400**	**9 631 300**[a]

[a] As shown in table 19, the total estimated extrabudgetary resource requirements for the completion of 181 country reviews under the first cycle amount to $10,119,300.

[b] Expenditure reported covers the salary costs of the General Service (Other level) post and of the Crime Prevention and Criminal Justice Officer (P-3) post for the period from June 2014 to December 2017.

United Nations CAC/COSP/IRG/2018/5

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Item 2 of the provisional agenda*
Review of implementation of the United Nations Convention against Corruption

Implementation of chapter V (Asset recovery) of the United Nations Convention against Corruption

Thematic report prepared by the Secretariat

Summary

The present report contains a compilation of the most common and relevant information on successes, good practices and challenges identified and observations made during the second cycle of the Mechanism for the Review of Implementation of the United Nations Convention against Corruption with regard to the implementation of chapter V (Asset recovery) of the Convention.

* CAC/COSP/IRG/2018/1.

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I. Introduction, scope and structure of the report

1. In its resolution 3/1, the Conference of the States parties to the United Nations Convention against Corruption adopted the terms of reference of the Mechanism for the Review of Implementation of the United Nations Convention against Corruption, contained in the annex to that resolution, and the draft guidelines for governmental experts and the secretariat in the conduct of country reviews and the draft blueprint for country review reports, contained in the appendix to the annex, to be finalized by the Implementation Review Group at its first meeting, held in Vienna from 28 June to 2 July 2010.

2. In accordance with paragraphs 35 and 44 of the terms of reference of the Mechanism, the present thematic report contains a compilation of the most common and relevant information on successes, good practices, challenges and observations contained in the country review reports, organized by theme, for submission to the Implementation Review Group, to serve as the basis for its analytical work.

3. The present thematic report contains information on the implementation of chapter V (Asset recovery) of the Convention by States parties under review in the second cycle of the Mechanism. It is based on information included in six country review reports that had been completed, or were close to being completed, at the time of drafting. The report focuses on current trends in and examples of implementation, and includes cumulative tables and figures showing the most commonly encountered challenges and good practices.

4. As the various articles of the four substantive chapters of the Convention are closely related, the present report builds on the previous thematic reports covering the implementation of chapters III and IV of the Convention. Chapters III and IV were under review in the first cycle. The structure of the present report follows that of the executive summaries and thus groups certain articles and topics that are closely related in clusters.

II. General observations on challenges and good practices in the implementation of chapter V of the Convention

5. As requested by the Implementation Review Group, the present report contains an analysis of the most prevalent challenges and good practices in the implementation of chapter V, organized by article of the Convention. The figures and tables below cover the six countries under review.[1]

[1] Data used in the preparation of the present report are based on country reviews that had been finalized as at 15 February 2018.

Figure I
Challenges identified in the implementation of chapter V of the Convention

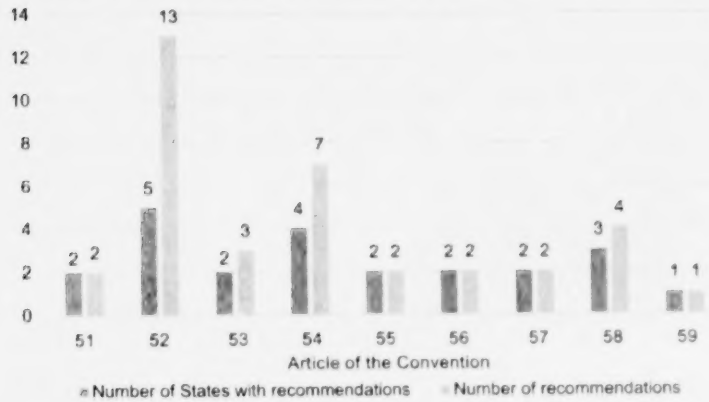

Table 1
Most prevalent challenges in the implementation of chapter V of the Convention

Article of the Convention	*No. of States with recommendations*	*No. of recommendations issued*	*Most prevalent challenges in implementation (in order of prevalence, grouped by article of the Convention)*
Article 52	5	13	Identification of foreign and domestic politically exposed persons; allocation of resources; reporting of foreign interests; lack of emergency freezing powers for law enforcement; systematic identification of beneficial ownership; prohibition of "shell banks".
Article 54	4	7	Insufficient provisions on confiscation, seizure and freezing; lack of non-conviction-based confiscation.
Article 58	3	4	Emergency freezing powers for the financial intelligence unit.
Article 53	2	3	Lack of recovery mechanisms enabling foreign States to establish their title to or ownership of property, or to be awarded compensation or damages.
Article 51	2	2	Streamlining asset recovery procedures.
Article 57	2	2	Insufficient measures for the return of crime proceeds to requesting States in cases of embezzlement of public funds.
Article 55	2	2	Obligation to give the requesting State party an opportunity to present its reasons in favour of continuing a measure before it is lifted.
Article 56	2	2	Incorporation of regional standards into domestic law.
Article 59	1	1	Domestication of the Convention as treaty basis.

Figure II
Good practices identified in the implementation of chapter V of the Convention

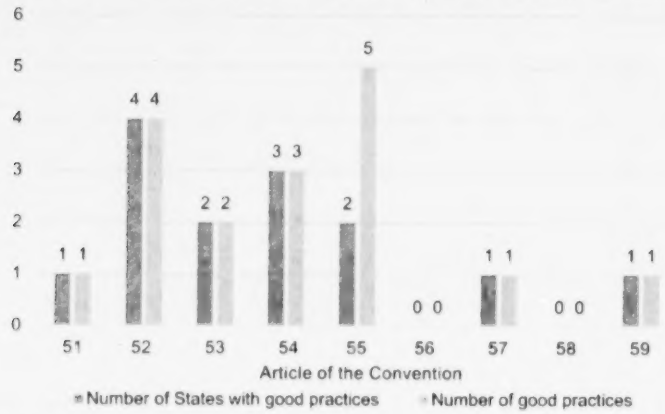

Table 2
Most prevalent good practices in the implementation of chapter V of the Convention

Article of the Convention	*No. of States with good practices*	*No. of good practices*	*Most prevalent good practices (in order of prevalence, grouped by article of the Convention)*
Article 55	2	5	Flexibility of mutual legal assistance laws; close cooperation and consultation, use of the Convention as legal basis for returns.
Article 52	4	4	The definition of politically exposed persons includes domestic politically exposed persons; establishment of registry of bank accounts; sharing of financial intelligence with other States.
Article 53	2	2	Explicit granting of legal personality to States.
Article 54	3	3	Evidentiary requirements for the recognition of foreign confiscation orders; proactive issuing of freezing orders; non-conviction-based confiscation.
Article 51	2	2	Active engagement in the development and promotion of international law.
Article 57	1	1	Return of property to bona fide third parties.
Article 59	1	1	Subregional cooperation on the basis of the Convention.

III. Implementation of chapter V of the Convention

A. General provision; special cooperation; bilateral and multilateral agreements and arrangements (articles 51, 56 and 59)

6. With regard to engaging in efforts to recover assets, all States reported on various arrangements they had in place to address asset recovery (art. 51). At an

institutional level, one of the countries whose review had been completed had established a separate entity for the recovery of assets. Three States had established separate entities for the management of assets. Those States that did not have dedicated recovery or management entities took a more decentralized approach, relying on institutions such as prosecution services, tax authorities and police to pursue, secure, and manage assets prior to confiscation. One country had enacted a single dedicated instrument governing the recovery and management of assets. Those States that had no dedicated legislation used more generic laws such as the criminal procedure code or the anti-money-laundering laws to recover assets.

7. Five States allowed the spontaneous transmission of information, for example reports of suspicious transactions and unusual payments, that might lead to a request under chapter V of the Convention (art. 56). Four States provided for the spontaneous transmission of information in specific laws, and in three of those States, the spontaneous transmission of information was covered by the law on mutual legal assistance. One country provided for the spontaneous transmission of information in its anti-corruption law, while another made such provisions in its anti-money-laundering law. Generally, States that had not specifically legislated on the spontaneous transmission of information nonetheless did have standing practices to provide assistance without prior request. In that regard, five States had empowered their financial intelligence units to exchange information without prior request by virtue of their membership in the Egmont Group of Financial Intelligence Units. The Egmont Group provided a platform for the secure exchange of expertise and financial intelligence to combat money-laundering and the financing of terrorism.

8. All States had ratified multilateral and bilateral agreements to enhance international cooperation pursuant to chapter V (art. 59). Four of those States used the Convention as a legal basis and allowed the direct application of its self-executing provisions.

B. Prevention and detection of transfers of proceeds of crime; financial intelligence unit (articles 52 and 58)

9. With regard to money-laundering, States reported having in place various measures for the prevention and detection of proceeds of crime (art. 52, para. 1). In their legislation on money-laundering and financial institutions, all States were found to have requirements in place to verify the identity of customers. Furthermore, all States had measures in place to determine the identity of beneficial owners of funds deposited into high-value accounts. Five States had measures in place to apply enhanced scrutiny to accounts sought or maintained by or on behalf of politically exposed persons (art. 52, para. 2). One of those States, however, had yet to impose a general obligation to exercise due diligence with customers. Some States had a definition of politically exposed persons but faced challenges in the determination of foreign politically exposed persons. Two States had not included domestic politically exposed persons in their definition.

10. All States had legislation that required financial institutions to maintain adequate records (art. 52, para. 3). Records had to be kept for periods ranging from six to ten years. All States but one had measures in place to prevent the establishment of banks that had no physical presence and were not affiliated with a regulated financial group, known as "shell banks". All States but one required financial institutions to refuse to enter into relationships with shell banks (art. 52, para. 4). However, only one State reported prohibiting the continuation of a correspondent banking relationship with such institutions or with other foreign financial institutions that permitted their accounts to be used by shell banks.

11. Five States reported having financial disclosure systems in place for appropriate public officials (art. 52, para. 5). One country did not have a financial declaration system for its public officials on grounds of right-to-privacy concerns. However, that country required its public officials to report their worldwide income and assets in tax

declarations. In one country, the asset declaration system was applicable to all public servants. In another country the coverage of such declarations was limited in scope. A recommendation was made to that country to require such declarations from a broader category of public officials. In another country, not only public officials themselves were required to declare their property, but also their spouses and children. Of the five States with financial disclosure systems in place, only two imposed sanctions for non-compliance. In some countries, asset declarations were filed electronically and kept confidential. Declarations in those countries were not readily available to the public, but they were accessible to law enforcement authorities. In one country, asset disclosure requirements also applied to foreign properties and financial interests. In another country, however, declarations did not include foreign assets. In one case, a recommendation was made to permit competent authorities to share financial disclosure information obtained from other States.

12. Four States had measures in place requiring appropriate public officials having an interest in or signature or other authority over a financial account in a foreign country to report that relationship to appropriate authorities and to maintain appropriate records related to such accounts (art. 52, para. 6). In some countries, such measures were found to be part of tax provisions or other instructions. One State had no measures in place requiring public officials to report such relationships to the appropriate authorities, and received recommendations to consider adopting them.

13. All States had financial intelligence units that served as national centres for receiving, analysing and disseminating to authorities reports of suspicious financial transactions (art. 58). In addition, all States were members of the Egmont Group of Financial Intelligence Units. However, varying mandates and models were in place for the financial intelligence units of the reporting States. Some were mostly administrative in nature, while others had investigative tasks as well. In addition, different units had different powers. For example, some units had authority to freeze assets for up to 48 hours in emergencies, while others had no authority to freeze assets at all. One country was advised to consider granting its financial intelligence unit the power to order administrative asset freezes or to block the execution of suspicious transactions for a specified period. Another challenge identified was that one State allocated insufficient resources to its financial intelligence unit and other supervisory authorities to enable them to carry out their duties, and a recommendation was issued to that State to ensure that sufficient resources were allocated (art. 52, para. 1).

C. Measures for direct recovery of property; mechanisms for recovery of property through international cooperation in confiscation; international cooperation for purposes of confiscation (articles 53, 54 and 55)

14. With one exception, none of the countries with completed reviews had enacted specific provisions expressly allowing other States to initiate civil action in its courts to establish title or ownership of property acquired through the commission of an offence under the Convention, also known as locus standi or legal standing (art. 53, subpara. (a)). Those States referred to the general principles enshrined in their codes of civil procedure or to provisions of civil litigation under common law. Four States confirmed that the law treated foreign States on the same footing as any other legal person. However, the anti-corruption act of one country expressly gave its courts jurisdiction over civil actions for the direct recovery of property.

15. Likewise, few States parties had rules specifically permitting courts to award compensation or damages to another State party for offences under the Convention, to be paid by the offender (art. 53, subpara. (b)). However, in all cases, the general rules of civil law and civil procedure enabled courts to do so. Accordingly, to claim compensation or damages before a court in those States, other States had to comply with the general rules of civil procedure, which, for example, meant they had to be represented by a lawyer registered with a national bar association. Two States required

a deposit for court fees, known as *cautio judicatum solvi*, to be paid before legal action could be taken. Four States recognized other States parties' claims as legitimate owners of property in confiscation proceedings as required under article 53, subparagraph (c), whereas one State did not.

16. All States had legislative frameworks to give effect to foreign confiscation orders issued by courts of other States parties (art. 54, subpara. 1 (a)), in particular by directly recognizing such orders. However, one State was encouraged to implement, in practice, provisions on confiscation, seizure and freezing. Although in all States, the competent authorities had powers to issue domestic confiscation orders (art. 54, para. 1 (b)), one State had a list of offences for which the competent courts could issue confiscation orders under the Criminal Code that did not include all offences under the Convention. The same State had not yet considered allowing confiscation of assets in the absence of a criminal conviction under certain circumstances (non-conviction-based confiscation, art. 54, para. 1 (c)).

17. Article 54, paragraph 2, which requires States parties to permit their competent authorities to freeze or seize property, either upon a foreign order or upon request, had been implemented in most States. In one State, authorities did not have powers to enforce foreign freezing or seizure orders directly, but could issue such orders under domestic procedures instead, either at their own initiative or in response to a request from a foreign State. The same State was asked to consider giving its financial intelligence unit powers to order administrative freezes or block the execution of a transaction for a specific period. In three States, authorities had powers to preserve property proactively, in the absence of a request (art. 54, para. 2 (c)).

18. Article 54 concerns domestic rules for international cooperation in confiscation, while article 55, paragraphs 1 and 2, sets out specific obligations that apply in concrete cases. In five States, the obligations referred to in article 54 and in article 55, paragraphs 1 and 2, are applied directly, in line with their self-executing nature. In most cases, requests for confiscation as referred to in article 55 had to comply with the legislation on international cooperation in criminal matters and the criminal procedure code of the requested State and with bilateral and multilateral conventions. One State had specific provisions in its anti-corruption act. These legal provisions and international conventions constituted the domestic law and procedural rules referred to in article 55, paragraph 4, that governed decisions and actions relating to confiscation, freezing and seizure. Four States considered the Convention the necessary and sufficient treaty basis for taking these measures. One State could not use the Convention as legal basis but, at the same time, did not require a treaty to cooperate to effect confiscation.

19. Several States had not furnished copies of their laws and regulations on confiscation to the Secretary-General of the United Nations as required under article 55, paragraph 5. Countries under review were systematically advised that they could meet this obligation by submitting the relevant legislation to the United Nations Office on Drugs and Crime in the course of the review process. One country reported its practice of holding consultations with requesting States and, if no response was received from the requesting State, the practice was not to refuse, but to close cases provisionally, so that they might be reactivated once additional information were received. Another country in practice applied a *de minimis* threshold equivalent to about $10,000 for freezing orders, but only if the assets were those of a legal person. Only one country stated that its legislation did not provide for giving a requesting State an opportunity to present its reasons in favour of continuing a provisional measure before it is lifted. The rights of bona fide third parties were generally protected in the relevant legislation and conventions.

D. Return and disposal of assets (article 57)

20. Most countries reviewed to date did not have practical experience with the return and disposal of assets. Only one country had returned sizeable amounts of money

stemming from offences under the Convention. However, all States confirmed that they could comply with the general principle. Three States indicated that they could return confiscated property by direct application of the Convention. In addition, or instead, all countries had some domestic legal basis for the return and disposal of assets in their law on international cooperation in criminal matters, their criminal procedure code, their anti-corruption law or their law on money-laundering and the financing of terrorism. In most cases, confiscated assets became property of the State, after which the reviewed countries could transfer that property to another State.

21. The applicable legislation and conventions protected the interests of bona fide third parties, including legitimate owners and legal persons (art. 57(2)).

22. One State reported that, although it had no legal basis for waiving the requirement to obtain a final judgment in the requesting State, it could return assets on a different basis, for example through separate in rem forfeiture proceedings. Moreover, it could return assets on the basis of a domestic confiscation order even in the absence of a foreign final judgment. Any injured party could join criminal proceedings as a private party and claim damages.

23. All States could deduct reasonable expenses incurred in investigations, prosecutions or judicial proceedings leading to the return or disposal of confiscated property (art. 57, para. 4). Likewise, all States could conclude agreements or arrangements on a case-by-case basis for the final disposal of confiscated property, although none had done so yet. In one country, the anti-money-laundering act required confiscated property to be divided equally between the requesting State and the requested State. However, that rule applied only in the absence of a treaty that stipulated otherwise, and the Convention was considered such a treaty.

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Review of implementation of the United Nations Convention against Corruption

Implementation of chapter II (Preventive measures) of the United Nations Convention against Corruption

Thematic report prepared by the Secretariat

Summary

The present report contains the most common and relevant information on successes, good practices, challenges and observations identified in the second cycle of the Mechanism for the Review of Implementation of the United Nations Convention against Corruption, focusing on the implementation of chapter II (Preventive measures) of the Convention.

* CAC/COSP/IRG/2018/1.

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I. Introduction, scope and structure of the present report

1. In accordance with paragraphs 35 and 44 of the terms of reference of the Mechanism for the Review of Implementation of the United Nations Convention against Corruption, which were adopted by the Conference of the States Parties to the United Nations Convention against Corruption in its resolution 3/1, the present thematic report has been prepared in order to compile the most common and relevant information on successes, good practices, challenges and observations contained in the country review reports, organized by theme, for submission to the Implementation Review Group, to serve as the basis for its analytical work.

2. The present thematic report contains information on the implementation of chapter II (Preventive measures) of the Convention by States parties under review in the second cycle of the Implementation Review Mechanism. It is based on information in the six country review reports that had been completed, or were close to completion, at the time of drafting. The report focuses on existing trends and examples of implementation, and includes a table and figures on the most common challenges and good practices. More comprehensive trends and nuances will be identified in future iterations of the thematic and regional reports, as more data become available from the completed country reviews.

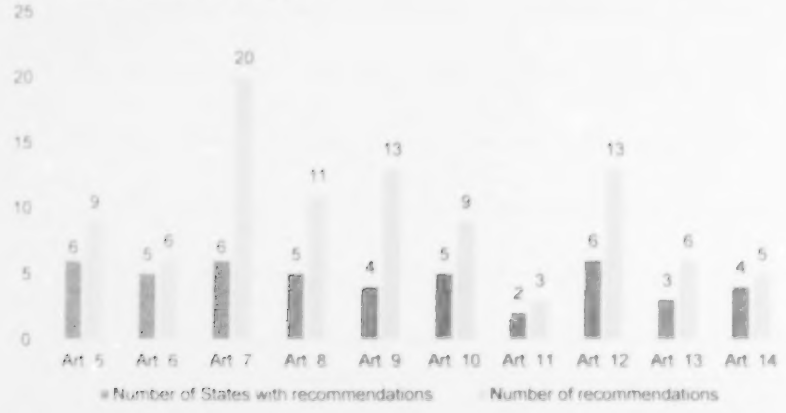
3. Given the close links between the various articles of the four substantive chapters of the Convention, the present report builds upon the previous thematic reports on the implementation of chapters III and IV of the Convention, which were under review in the first cycle of the Implementation Review Mechanism. The structure of the present report follows the structure of the executive summaries; certain articles and topics that are closely related are clustered together.

II. General observations on challenges and good practices in the implementation of chapter II of the United Nations Convention against Corruption

4. As requested by the Implementation Review Group, the present report contains an analysis of the most prevalent challenges and good practices in the implementation of chapter II, organized by article of the Convention. The figures and table below cover the six countries under analysis.[1]

Figure I

Challenges identified in the implementation of chapter II of the United Nations Convention against Corruption



[1] Data used in the preparation of the present report are based on country reviews as at 3 April 2018.

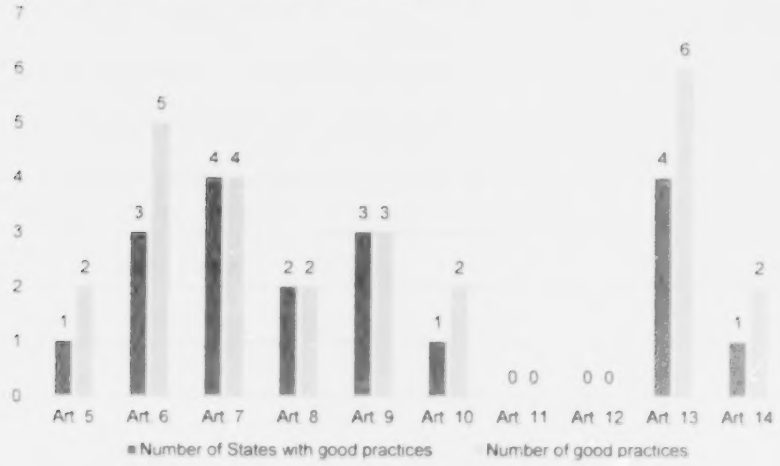
Most prevalent challenges in the implementation of chapter II of the United Nations Convention against Corruption

Article of the Convention	*No. of States with recommendations*	*No. of recommendations issued*	*Most prevalent challenges in implementation (in order of prevalence of identified challenges)*
Art. 7, para. 1	6	8	Lack of adequate procedures for the selection and training of individuals for public positions considered vulnerable to corruption and their periodic rotation, where appropriate Insufficient transparency in the recruitment of public officials, including lack of objective recruitment methods, limited public advertising of vacancies and inadequate appeal mechanisms for unsuccessful candidates
Art. 12, paras. 1 and 2	6	9	Limited cooperation between law enforcement agencies and relevant private entities Insufficient measures to prevent conflicts of interest, including lack of "cooling-off" periods for former public officials Inadequate measures to prevent the misuse of procedures regarding subsidies and licences granted by public authorities for commercial activities Limited standards and procedures, such as codes of conduct, aimed at safeguarding the integrity of private entities
Art. 7, para. 3	5	5	Lack of comprehensive legislation or administrative measures to regulate the funding of candidatures for elected office and the funding of political parties, including on issues such as private donations and disclosure of donations
Art. 10	5	9	Lack of legislation or regulations to comprehensively regulate public access to information Burdensome procedures for accessing information and insufficient proactive information-sharing
Art. 5, para. 1	5	5	Weak coordination of policies to prevent corruption Limited coherence, comprehensiveness and effectiveness of national anti-corruption policies
Art. 7, para. 2	4	4	Limited criteria concerning candidature for and election to public office
Art. 8, para. 5	4	4	Ineffectiveness of conflict of interest and, in particular, asset declaration systems, including a limited scope of their application and lack of effective verification and monitoring
Art. 14, para. 1	4	4	Country-specific gaps in anti-money-laundering and countering the financing of terrorism legislation and regulations Institutional weaknesses in financial supervision Incomplete implementation of recommendations issued by other international monitoring bodies, such as the Financial Action Task Force and Financial Action Task Force-style regional bodies
Art. 9, para. 1	3	4	Ineffective systems of domestic review and appeal in public procurement matters Inadequate selection of and screening methods and training for procurement officials No obligation for procurement officials to declare their interests and assets
Art. 8, paras. 2 and 6	3	4	Lack of codes of conduct for public officials, or the limited application thereof to certain groups of public officials Unavailability of disciplinary measures
Art. 7, para. 4	3	3	Lack of legislation or mechanisms to prevent or regulate conflicts of interest
Art. 9, para. 2	3	3	Limited transparency in the budget adoption process No or limited risk management systems in the area of public financial management

Article of the Convention	*No. of States with recommendations*	*No. of recommendations issued*	*Most prevalent challenges in implementation (in order of prevalence of identified challenges)*
Art. 13, para. 1	3	4	Limited participation of civil society in the prevention of and fight against corruption, including as a result of the lack of a law on freedom of the press and limited corruption awareness campaigns
Art. 8, para. 4	3	3	Limited channels and protection measures for public officials to report acts of corruption
Art. 5, para. 2	2	2	Lack of anti-corruption practices, such as awareness-raising or education campaigns
Art. 11, para. 1	2	2	Lack of an asset declaration system for judges, where appropriate Inadequate safeguards on the independence of temporarily appointed judges
Art. 12, para. 3	2	2	Insufficient measures to implement all elements of this paragraph
Art. 6, para. 1	1	1	Lack of a designated preventive anti-corruption body
Art. 14, para. 2	1	1	Limited powers of the financial intelligence unit to freeze assets and block suspicious transactions

Figure II

Good practices identified in the implementation of chapter II of the United Nations Convention against Corruption



III. Implementation of chapter II of the United Nations Convention against Corruption

A. Preventive anti-corruption policies and practices; preventive anti-corruption body or bodies (articles 5 and 6)

5. As identified in the reviews, countries have taken various approaches to the adoption of national preventive anti-corruption policies.

6. Three countries had adopted dedicated written anti-corruption strategies and action plans; however, the reviewers noted the need to ensure greater coherence and coordination of the policies adopted.

7. Two other countries had no written national anti-corruption policies. One of them, owing to the small size of the national administration and limited resources and expertise, used its international reporting obligations to regularly assess the situation and relied on the recommendations from the international peer review processes as a

basis for developing and implementing any anti-corruption policy. Although the reviewers were satisfied with that approach, they recommended that the country ensure that all areas of the Convention were subject to comprehensive and ongoing review. In the other country, several sectoral anti-corruption policies were in place; nevertheless, it was recommended that the country adopt a comprehensive national strategy to allow for greater effectiveness and coordination.

8. Another country's anti-corruption policies were contained in various laws, departmental policy documents and the national integrity plan, which was seen as sufficient by the reviewers. However, it was recommended that the country consider enhancing coordination between national and departmental anti-corruption policies, in particular with regard to implementation, monitoring and revision and information exchange.

9. Countries reported numerous practices aimed at the prevention of corruption, including the organization of awareness-raising and education activities, the introduction of whistle-blowing regimes for public officials, the provision of training for public officials and the development of corruption risk management tools and various reports, surveys and studies. The establishment of integrity units in governmental bodies and departments and the publication of the annual reports of the anti-corruption body's panels and committees and surveys of public perception were seen as good practices in that regard.

10. All countries reported that their anti-corruption bodies played a role in the review of relevant legal instruments and administrative measures with a view to determining their adequacy to prevent and fight corruption. In one country, the preventive body evaluated national anti-corruption legislation in the light of the recommendations issued in the framework of international review mechanisms. In another country, the review and evaluation was carried out on an ad hoc basis and the reviewers recommended that the adoption of a more systematic approach to that task be considered.

11. All countries reported on their membership or involvement in regional and international organizations, programmes and projects aimed at the prevention of corruption, including the following: Group of States against Corruption of the Council of Europe; Working Group on Bribery in International Business Transactions of the Organization for Economic Cooperation and Development; Anti-Corruption Initiative for Asia and the Pacific of the Asian Development Bank and the Organization for Economic Cooperation and Development; International Anti-Corruption Academy; International Association of Anti-Corruption Authorities; Global Anti-Corruption Initiative of the United Nations Development Programme; Advisory Board on Corruption of the African Union; Network of National Anti-Corruption Institutions in West Africa; Extractive Industries Transparency Initiative; Pacific Islands Law Officers' Network; Pacific Islands Forum Secretariat; secretariat of the Pacific Community; and Pacific Association of Supreme Audit Institutions. International treaties such as the African Union Convention on Preventing and Combating Corruption and the Economic Community of West African States Protocol on the Fight against Corruption were also noted as relevant. One country provided information on numerous memorandums of understanding with other States in the area of anti-corruption.

12. Five countries had established dedicated anti-corruption bodies that were responsible for the implementation of policies and activities on the prevention of corruption. In addition, they reported that several other national institutions, including ethics committees, financial intelligence units and public service departments, played a role in the prevention of corruption and the implementation of national strategies. In one country, a steering committee involving representatives of the public sector, the private sector and civil society had been established to coordinate oversight of the national anti-corruption strategy. Only one country reported that it had no specialized anti-corruption preventive body in place. It was recommended that the country establish such a body in the future.

13. The place of anti-corruption preventive bodies in national institutional structures, and therefore their independence, varied. For example, in one country, the body was composed of representatives of various governmental ministries, but that was not considered to pose any practical challenges to its independence owing to its limited role in exercising coordination and policy development functions and proposing ways to implement international recommendations. In another country, the law guaranteed the independence of the anti-corruption agency, and five independent committees conducted oversight to ensure that its functions were carried out effectively. In addition, the same country was in the process of establishing a constitutional tenure for the head of the agency and a new commission responsible for the recruitment of the agency's staff. In another country, the anti-corruption office was attached to the Head of State and given financial autonomy, and its members were appointed for a renewable three-year term. In another country, the anti-corruption agency was headed by the comptroller general of the State, who was appointed through a competitive recruitment process for a non-renewable five-year term. The agency was independent from other governmental bodies, had its own budget and submitted annual reports to the President, Prime Minister and the President of the National Assembly. However, it was recommended that the country establish the terms of recruitment for the comptroller general and the comptrollers of the State.

14. Three out of the six countries had officially informed the Secretariat of their designated preventive bodies. The others were encouraged to submit information to that effect.

B. Public sector; codes of conduct for public officials; measures relating to the judiciary and prosecution services (articles 7, 8 and 11)

15. All of the countries reviewed had rules and procedures in place governing the recruitment, hiring, retention, promotion and retirement of and disciplinary measures for public officials, which were usually set out in laws governing the civil service. All but one country used a competitive procedure, including written tests and interviews, for the recruitment and promotion of public officials. It was recommended that that country unify its procedures on recruitment and the examinations involved. It was seen as a good practice in one country that the hiring authorities ensured that all vacancy advertisements drew attention to the principles of integrity, honesty, accountability, efficiency and transparency.

16. The relevant institutional structure varied across the countries and ranged from the existence of centralized bodies to a decentralized approach, whereby hiring agencies determined the recruitment and retention of and disciplinary measures for their public officials.

17. In most of the countries, vacancies were usually advertised on the Internet or in newspapers. However, one country received a recommendation on addressing the lack of an online platform for the publication of vacancies. Another country was encouraged to further enhance transparency in the recruitment and promotion of public officials by extending public advertising for lower-ranking positions, as there was a general policy of first publishing vacancies internally to allow for rotation and to maximize the use of existing resources. It was recommended to one country that it consider specifically referencing, in the relevant regulations, the right to appeal appointment and promotion decisions.

18. In general, countries did not elaborate on the concept of "positions considered especially vulnerable to corruption". Only one country had assessed and identified risk areas and positions vulnerable to corruption. It was seen as a good practice that that country had introduced special selection procedures for such positions and had taken measures to mitigate the risks, including through specific staff training and rotation systems. Although one country reported the existence of a rotation system for public officials, that measure was not in place specifically for positions vulnerable to

corruption. Four countries did not have any rotation systems in place, and it was recommended that they introduce such systems for positions considered especially vulnerable to corruption.

19. All countries referred to education and training programmes for public officials, either upon initial appointment or on an ongoing basis. Countries reported that those training programmes included anti-corruption, ethics and integrity components.

20. Some countries referred to their existing salary scales to demonstrate that adequate remuneration was provided to public officials.

21. All countries referred to their laws setting out criteria concerning candidature for and election to public office. However, it was recommended that two countries establish criteria relating to candidatures with a view to preventing corruption, and one country was encouraged to prohibit the candidature of persons convicted of offences established in accordance with the Convention. Two countries reported that there was no requirement for asset disclosure by candidates for public office. One of those countries was encouraged to consider adopting requirements for elected officials, prior to or upon entry to elected office, to file asset declarations and demonstrate compliance with tax obligations, past and present, as the lack of such requirements had been identified as a concern by the country under review.

22. With regard to the issue of transparency in the funding of candidatures for elected public office and the funding of political parties, challenges were identified and recommendations were subsequently issued to five countries under review. For example, although one country had a law on the funding of political parties, it did not regulate private donations. The country was encouraged to consider enhancing the transparency of private donations, ideally through the introduction of a threshold for disclosure and publication. Similarly, in another country, private funding was left unregulated, and a corresponding recommendation was issued. In another country, although criteria relating to the funding of presidential candidates, political parties and several other candidatures for elected office were in place, penalties for non-compliance were only applicable to natural persons; it was recommended that the country extend them to legal persons. However, it was considered a good practice that natural persons who provided or accepted prohibited funding incurred the same penalties as those who committed corruption. Two other countries did not regulate political party financing and it was recommended that they adopt laws or rules to that end.

23. Countries reported on various legal measures and administrative frameworks to regulate conflicts of interest in the public sector. Some referred, for example, to measures prohibiting public officials' engagement in secondary employment, or measures on gifts and declaration of assets. However, not all countries had introduced such measures and several recommendations were issued, including a recommendation to consider introducing post-employment restrictions on the activities of former public officials in the private sector, adopting systems and procedures for public officials to declare potential conflicts of interest (outside activities, employment, substantial gifts or benefits from which a conflict may arise) and adopting a bill on the prevention of conflicts of interest; such efforts were already under way.

24. With regard to the conduct of public officials, all countries referred to their general laws on the civil service or statutes of individual public bodies. All countries also reported that codes of conduct or ethics were in place for public officials.

25. Three countries had adopted general codes of conduct that set out the duties, principles and guidelines for all public officials. However, the code of conduct of one of those countries was not applicable to elected public officials; it was therefore recommended that the country either expand the scope of the code of conduct or adopt a specific new code for elected public officials. Apart from the general code of conduct, that country had also adopted several sectoral codes of conduct. A similar approach was taken by two other countries that had adopted not only a principal code

for all government officers, but also separate codes of conduct for individual ministries, agencies, parliamentarians and statutory bodies. The approach of adopting only specific sectoral codes of conduct was taken by two other countries. It was nevertheless recommended that one of those countries adopt a general code of ethics for all public officials and consider taking disciplinary or other measures against officials who violated its provisions. In the second country, sectoral codes of conduct had not been adopted in all public bodies and institutions and the country was therefore encouraged to adopt codes of conduct for all public officials.

26. In four countries, the codes of conduct were of an aspirational nature and served to raise awareness, but were not a disciplinary tool. One of those countries explained that that was because their code of conduct was based on the relevant provisions of the civil service law that already provided for disciplinary measures, such as reprimand, reduction of wages, transfer or termination of employment. Only one country's sectoral codes of conduct included enforcement provisions and mandated the relevant human resources departments to ensure compliance with the rules and to apply disciplinary measures. In another country, the code provided for disciplinary measures, including dismissal, for non-compliance.

27. Countries' measures and systems to facilitate the reporting by public officials of acts of corruption varied. In four countries, public officials had a duty to report any suspected crime, including corruption, to the director of their office, the police, the anti-corruption agency or the public prosecutor. In the other two countries, no duty existed for public officials to report suspected cases of corruption. As for the reporting channels, one country had set up dedicated helplines and physical mailboxes in certain government departments to allow public officials to report corruption. In three countries, public officials could use the general reporting hotlines that were open to both members of the public and public officials. However, in one country, although the code of conduct called for the reporting of misconduct, no measures or systems were in place to facilitate reporting by public officials or the protection of reporting persons. A recommendation was issued accordingly.

28. In three countries, certain categories of public officials were subject to regular asset declaration requirements. However, it was recommended that two of those countries consider expanding the list of persons required to declare assets. The issue of verification was also seen as problematic. In one country, although ministries carried out verification within their departments, there was no oversight of the verification process by any external authority. It was recommended that the country address the issue, with a view to putting in place a system of external oversight on the outcomes of the verification process in each ministry. In another country, no verification process was in place and the responsible department only collected the submitted declarations. One country had adopted legislation on asset declarations; however, the system was not operational and the reviewing States recommended that the country put the system into operation and also expand the list of officials subject to declarations. One country did not have any asset disclosure requirements in place because it was considered that such requirements were inconsistent with the right to privacy; however, the country required all citizens, including public officials, to declare their worldwide income and assets in their tax declarations.

29. One country's code of conduct for public officials contained chapters on conflicts of interest, recusal, gifts and other advantages and secondary employment. Although the code of conduct itself did not include disciplinary measures, other relevant legislation provided for such measures in cases where public officials did not comply with their duties as set out in the code. For example, public officials could only accept small, courtesy gifts, and even the acceptance of those required the approval of their supervisor. Similarly, the exercise of secondary employment was permissible only in certain, limited situations and the director of the office had to be asked in advance for approval. In one country, all public officials were required to declare gifts, donations and other benefits, and all declared items had to be handed over to the State. In another country, all public leaders were required by law to submit asset disclosures and a commission had been established to verify such disclosures

and investigate allegations of misconduct, which could result in monetary penalties. Conflict of interest violations by public sector employees were also punishable under the country's penal code.

30. In all countries, the independence of the judiciary was safeguarded in the Constitution and relevant laws on the organization of the court system. Some countries referred to their statutes that set out the duties and rights of judges and also provided rules on the recruitment, selection and tenure of judges. Selection of judges was usually done through the work of dedicated commissions, councils or committees, which then usually also served as disciplinary bodies for appointed judges. Two countries provided information on dedicated codes of conduct for judges that addressed issues such as conflicts of interest, secondary employment, outside activities and recusal. Two countries reported that training programmes for judges were provided by dedicated institutes. Recommendations were issued to two countries with regard to paragraph 1 of article 11. In one case, it was recommended that the country expand the income and asset declaration system to judges. Another country was encouraged to ensure that temporarily appointed part-time judges enjoyed full independence in the exercise of their duties.

31. In terms of prosecution services, countries had adopted various laws, regulations and directives that governed the conduct of prosecutors. In one country, a dedicated act set out the rights and duties of prosecutors, and the office of the prosecutor enjoyed full independence from the executive branch. Similarly, another country had in place a comprehensive legal framework for its prosecution service and, in addition, all members of the prosecution service were considered public officials and, as such, were governed by all other relevant laws, including asset declaration requirements. A third country required public prosecutors to adhere to the general code of conduct for public officials. In another country, prosecutors reported to the attorney general, who was appointed by the President and enjoyed full independence. Finally, in two other countries, prosecutors were placed under the authority of the Minister of Justice. One country reported that it had a dedicated code of ethics for members of the prosecution service. In addition, some countries reported measures with regard to training and procedures on case management for prosecutors.

C. Public procurement and management of public finances (article 9)

32. All States parties had adopted measures regulating public procurement in the form of domestic legislation or the implementation of applicable international agreements or regulations. However, in one country, the legislation merely provided for the issuance of rules and regulations by the Finance and Treasury Minister, but failed to address the matter in detail, although the Government had produced a procurement guide. A recommendation was issued accordingly.

33. States parties differed in the use of centralized or decentralized procurement systems. The open tender procedure was always applied and, on most occasions, was mandatory for the award of public procurement contracts, although four States parties had stipulated threshold amounts of contract value for open tenders. In all States, the invitation to tender was made public through traditional media and broadcasting channels, as well as electronic procurement systems or tools. However, in one State, sole-source procurement comprised up to 10 per cent of total procurement, and State-owned enterprises did not have to follow many of the procurement rules. It was recommended that that State consider revisions to the procurement legislation to strengthen the competitive process and widen its scope. In another State, restricted invitations to tender or direct agreement were allowed under exceptional circumstances. The criteria for procurement, for example, economic, financial, qualitative or technical bases, were well defined in the legislation of two countries. In general, contracts were awarded to the bidder with the lowest qualifying bid, but other factors such as quality, environmental characteristics and cost-effectiveness could also be taken into consideration. E-procurement was widely used in almost all States parties.

34. Three States parties had established or were establishing domestic review procedures for public procurement. When inconsistencies in the procurement process arose, formal complaints could be made under different mechanisms, with the possibility of judicial appeal to the courts. Moreover, suspension of the tendering procedure or contract performance was possible, subject to certain conditions. Two States parties had introduced or required prior effort for amicable resolution or direct recourse to the contracting authority before litigation, although with no suspending effect in some cases. It was also noted that, in one State, there was no system of domestic review and appeal of procurement decisions, and a recommendation was issued in that regard.

35. In terms of regulating the personnel responsible for procurement, three States had adopted screening procedures for recruitment, legislation or rules on accountability, declaration systems and periodic training. One State had no specific requirements for relevant personnel to declare their interests or assets. Recommendations were given accordingly.

36. All States parties had laws, regulations and procedures regulating the adoption of the national budget. The execution of financial operations and budget implementation were subject to varying levels of control, although in all States, frequent and timely reporting was required and corrections could be made in case of failure. One State had even developed a rating system to measure controls, and an accountability index had been formulated. In another State, all ministries were required to establish budget implementation committees to identify priority areas and address relevant issues. Three States used courts of audit for oversight purposes. Audit reports were generally accessible by the public, with a few exceptions, and follow-up action could be undertaken to resolve issues raised in the reports. Nevertheless, in one State, there was no effective mechanism of audit and oversight for certain categories of expenditure, and a recommendation was issued accordingly.

37. The storage and preservation of financial documents was provided for in three States parties that allowed open access to archives and used electronic systems to manage files. It was seen as a good practice that one State provided that originals had to be kept for a period of 10 years, despite the use of electronic copies.

D. Public reporting; participation of society (articles 10 and 13)

38. All States parties had taken measures to facilitate public access to information, with three countries having relevant legislation in place. One State that did not have relevant legislation provided platforms for the public to obtain information on public administration through open data initiatives. Another State had relevant legal requirements, but they concerned only public procurement, the budget and public financial management. In another State, although the right to information was included as a general principle in the national anti-corruption strategy, no specific legislation had been adopted. It was recommended that those three States parties enhance transparency and strengthen procedures to allow for greater public access to information.

39. Notably, four States provided for multiple channels to access information on public administration. Such channels included the official gazette, national television, press releases, publications and mobile applications. Electronic services and information centres were widely used to handle information requests, with a view to simplifying administrative procedures. In two cases, States had also designated or established dedicated agencies and offices to deal with access requests or to monitor relevant practices. In general, government agencies published annual reports or proactively shared information on diverse platforms. However, one State indicated that only some government divisions published information online, and most ministries did not maintain official websites. A recommendation was issued in that regard.

40. Four States parties had appeals mechanisms for recourse to administrative or judicial remedies in cases where access to information was not granted. However, in one State, that was only possible in public procurement. Four States allowed decisions to deny access to information to be made on legitimate grounds, provided that the reasons were well explained. In that context, the balance between the protection of privacy and personal data, national security and the right to information was raised. For instance, in one State, it was an offence to wrongfully disclose official confidential information, such as Cabinet documents. It was also reported in another State that the application of national secrecy laws limited access to classified government information. A recommendation was issued on addressing that.

41. All States parties respected freedom of association, which was enshrined in their legislation or, as in the case of three States, in the constitution. Freedom of expression was equally protected. Almost all States attached importance to the role played by civil society organizations during the decision-making process. In line with different legislation, initiatives and policies, various means such as referendums, elections and direct consultation, in particular with civil society, were regularly used to promote public participation in the fight against corruption. In addition, one State had designated a seat on the policy council of its anti-corruption national authority for civil society, and two other States had invited non-governmental organizations to provide comments on draft laws. One State reported that civil society organizations had been invited to become members of the steering committee on the drafting and implementation of the national anti-corruption strategy. In one State party, civil society was not consulted on the development of laws or the national budget, but was more engaged in the dissemination of information and awareness-raising campaigns. A recommendation was therefore issued in that regard.

42. Numerous anti-corruption awareness-raising activities were in place in the States parties. Those activities included special curricula and events in schools, frequent training and information campaigns, television shows and periodic reports. Civil society organizations were heavily involved in that process and in the different programmes. However, statistics on the impact of those measures were not available.

43. Regarding the freedom to publish and disseminate information concerning corruption, three States provided for freedom of the press in their legislation, albeit with legal restrictions to protect interests such as the public order and State security. No data on the application of those restrictions were available.

44. In order to facilitate the reporting of complaints and allegations to anti-corruption bodies and authorities, all but one State provided a range of channels and methods, including mail or electronic means, toll-free numbers or hotlines, and mobile applications. In three States, anonymous reporting was allowed and protected, not only on a policy level but also by legal provisions. However, in one State, which had laws to protect anonymous reporting, concerns over the scope of protected disclosures and follow-up mechanisms on reports were raised. That State committed to reviewing its legislation and providing greater protection to reporting persons in combating corruption. Two other States could not provide for the possibility of anonymous reporting.

E. Private sector (article 12)

45. All States had adopted standards and procedures designed to prevent corruption in the private sector to various extents. Most States had adopted national legislation either on corporate governance or in specific areas such as accounting, auditing and business registration, and two States could directly apply the provisions of regional legal instruments or regional accounting standards to corporations. In two countries, special agencies or authorities were designated to supervise corporate governance, and companies were obliged to report periodically on their compliance.

46. Three countries promoted cooperation between law enforcement agencies and private entities through legislation or special initiatives. For example, one State

provided in its anti-money-laundering law that private companies were required to provide information to and collaborate with prosecution and judicial authorities, particularly with regard to freezing and confiscation measures and the reporting of suspicious transactions. Another State was taking steps to establish a whistle-blowing mechanism for auditors, in order to facilitate such cooperation.

47. In order to safeguard the integrity of private entities, two States parties had adopted a variety of standards and procedures, such as codes of conduct, compliance requirements, business judgment rules and mechanisms concerning the prevention of conflicts of interest. One State's anti-corruption strategy required private sector investors to implement anti-corruption compliance programmes, and non-compliance could lead to sanctions. However, in one country, only some large companies had begun to develop compliance programmes, and another State had not taken sufficient steps to preserve integrity in the private sector. Recommendations were issued to both States parties in that regard.

48. Three States had specific business registration requirements for corporations, with a view to enhancing transparency among private entities. In one country, non-registration of the entity could even lead to penal consequences. Nevertheless, owing to the complex composition of the private sector, some legal arrangements, such as trusts, were not fully covered by the registration provisions.

49. No comprehensive information was available on public oversight of the use of subsidies by private entities and licences granted by public authorities for commercial activities, or on the restrictions on the professional activities of former public officials. In one State, there were insufficient measures to prevent the improper use of regulatory procedures for private entities and inadequate restrictions on the exercise of professional activities by former public officials in the private sector. In another State, a regulation prohibiting former public officials from being employed in the private sector after their resignation or retirement was under development. Recommendations were issued to address relevant gaps.

50. Almost all States parties had accounting and auditing standards for the private sector in different forms. Half of them relied on their domestic laws and regulations, and the rest could apply relevant international standards.

51. As for specific requirements on the maintenance of books and records, three States applied strict legal sanctions for violations thereof. Those sanctions included criminal punishment for certain offences such as forgery and falsification of documents, use of false documents, aggravated fraud and deceit. However, except in the case of one State party, not all acts enumerated in article 12, paragraph 3, of the Convention, such as the establishment of off-the-books accounts, the making of off-the-books or inadequately identified transactions and the intentional destruction of bookkeeping documents earlier than foreseen by the law, were criminalized. In that context, such conduct was always subject to fines, and on a few occasions, the relevant private sector entities could be held individually or jointly liable.

52. There was some variation among the States parties with regard to prohibiting the tax deductibility of expenses that constituted bribes. Although one State clearly provided that tax deductions of expenses constituting bribes were prohibited, the tax laws of three other States were silent on the issue.

F. Measures to prevent money-laundering (article 14)

53. In general, compliance with article 14 was high among the countries covered by the present report. Although all but one country received recommendations relating to article 14, the recommendations were either very specific and focused on addressing particular issues in the country's anti-money-laundering and countering the financing of terrorism framework or concerned with follow-up measures to issues previously identified in other evaluations, such as by the Financial Action Task Force. In particular, the mutual evaluations carried out by the Financial Action Task Force

and Financial Action Task Force-style regional bodies seemed to have ensured a high level of compliance. In fact, all of the countries were members of Financial Action Task Force-style regional bodies such as the Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism of the Council of Europe, the Asia/Pacific Group on Money Laundering and the Intergovernmental Action Group against Money Laundering in West Africa (GIABA). In three countries, the anti-money-laundering and countering the financing of terrorism framework was largely determined by the West African Economic and Monetary Union and the European Union. One State that had received a recommendation on transposing a directive of the relevant regional economic integration organization into domestic law in order to fill existing gaps in the relevant legislation reported that it had done so since the country visit.

54. At the time of the country visit, several countries had completed or were in the process of completing their national risk assessments on money-laundering. The anti-money-laundering and countering the financing of terrorism laws in almost all countries provided for a risk-based approach. Three countries had adopted an "all-crimes" approach to money-laundering, so that any offence, or any offence of a certain gravity, could constitute a predicate offence for the purpose of article 23 of the Convention.

55. The legislation on the prevention of money-laundering in all countries contained provisions on the identification of customers and beneficial owners (the know-your-customer principle), customer due diligence and the levels of scrutiny applied to customers in a manner commensurate with a risk-based approach (typically, "normal", enhanced and simplified due diligence), as well as on the identification of politically exposed persons. The laws also designated supervisory authorities and entities covered by the provisions, including designated non-financial businesses and professions. However, one country's laws did not contain a general obligation with regard to customer due diligence and made the identification of customers (natural persons) mandatory only in the case of non-face-to-face financial operations.

56. Otherwise, there were only minor differences in legislative compliance between the various countries under review. For instance, in one country, domestic politically exposed persons were not covered by the definition in the anti-money-laundering and countering the financing of terrorism law, but that issue would be addressed under new provisions for the transposition of the fourth European Union anti-money-laundering directive. In most countries, even small ones, there were several supervisory authorities. By contrast, one country had established a financial markets authority as the sole, integrated and independent supervisory authority. It was, however, recommended that that authority conduct a larger proportion of inspections itself rather than mandating commercial audit firms to carry out anti-money-laundering audits.

57. All of the countries had established financial intelligence units. Typically, the units were administrative-type financial intelligence units under the authority of the ministry of economic affairs or the central bank. All financial intelligence units were members of the Egmont Group, and sometimes also members of regional groups of financial intelligence units. It was recommended that one country consider giving the financial intelligence unit the power to order the administrative freezing of accounts or transactions or the power to block the execution of transactions for a specific period. Reporting entities were responsible for the filing of suspicious activity reports or suspicious transaction reports.

58. All countries had disclosure-based regimes to monitor the movement of currency and bearer-negotiable instruments across their borders (with a typical threshold equivalent to approximately $10,000), and regimes covering money remitters and the electronic transfer of funds. Informal money transfer services, such as hawala, were not always regulated, and recommendations were issued as appropriate.

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Follow-up to the St. Petersburg Statement: report of the international expert group meeting on beneficial ownership transparency, held in Vienna on 3 and 4 October 2017

Note by the Secretariat

Summary

The present document contains a summary of the discussions held during the international expert group meeting on beneficial ownership transparency, held in Vienna on 3 and 4 October 2017. Pursuant to a mandate in the St. Petersburg Statement, which was adopted by the Conference of the States Parties to the United Nations Convention against Corruption at its sixth session in its resolution 6/5, the meeting reviewed, in the light of recent developments, the conclusions and recommendations contained in the study entitled *The Puppet Masters: How the Corrupt Use Legal Structures to Hide Stolen Assets and What to Do About It* published by the joint United Nations Office on Drugs and Crime/World Bank Stolen Asset Recovery Initiative.

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I. Introduction

1. In 2011, the joint United Nations Office on Drugs and Crime (UNODC)/World Bank Stolen Asset Recovery (StAR) Initiative published the results of a study on beneficial ownership transparency entitled *The Puppet Masters: How the Corrupt Use Legal Structures to Hide Stolen Assets and What to Do About It*,[1] a publication which is widely considered to be the seminal text on the subject in the field. Using cases, interviews with practitioners and evidence from researchers posing as potential customers, the publication proposed policy recommendations to guide national and international policymakers in the development and establishment of legislation, regulations and standards.

2. The publication of the so-called Mossack Fonseca papers has again highlighted the crucial importance of beneficial ownership information in tackling corruption and tracing illicit financials flows around the world. At the Anti-Corruption Summit, held in London in 2016, participants — including all Group of 20 (G-20) countries — committed to "ending the misuse of anonymous companies to hide the proceeds of corruption". Indeed, nearly all cases of grand corruption have one thing in common: they rely on corporate vehicles — legal structures such as companies, foundations and trusts — to conceal ownership and control of assets that are the proceeds of corruption.

3. The United Nations Convention against Corruption, article 12, paragraph 2 (e), explicitly mentions transparency among private entities, including measures regarding the identity of legal and natural persons involved in the establishment and management of corporate entities, and article 52, paragraph 1, obliges States parties to require financial institutions to verify the identity of customers and determine the identity of beneficial owners of funds deposited into high-value accounts. As guardian of the Convention, UNODC thus already has a specific legal mandate to support measures regarding beneficial ownership transparency.

4. Moreover, at its sixth session, the Conference of the States Parties to the United Nations Convention against Corruption, adopted resolution 6/5, entitled "St. Petersburg statement on promoting public-private partnership in the prevention of and fight against corruption", in which it called upon States parties to strengthen the involvement of the private sector in the fight against corruption and invited them, inter alia, to enhance transparency, including regarding beneficial ownership of private entities.

5. Against that background and on the basis of preparatory research, the international expert group meeting on beneficial ownership transparency, held in Vienna on 3 and 4 October 2017, reviewed, in the light of recent developments, the conclusions and recommendations contained in *The Puppet Masters* and discussed whether new legislation and policy developments, as well as new cases of grand corruption that emerged after the conclusion of the study, confirmed those conclusions and recommendations, or whether they indicated new trends. The meeting was organized by UNODC with financial support from the Russian Federation. The international expert group comprised more than 30 participants from the public and private sectors and international and non-governmental organizations.

II. Overview of new legislation and policy developments related to beneficial ownership transparency

6. Representatives of UNODC presented an overview of new policy initiatives and legislation at the international level and in some G-20 jurisdictions. In addition, participants spoke about beneficial ownership information and obstacles to accessing it in their home jurisdictions.

[1] Available from http://star.worldbank.org/star/publication/puppet-masters.

A. New legislation and policy developments at the international level

7. Representatives of UNODC described developments in international legislation and guidelines related to beneficial ownership, focusing on the European Union, the Financial Action Task Force (FATF), the G-20, the Group of Seven (G-7) and the London Anti-Corruption Summit. In the European Union, the deadline for the transposition of the fourth anti-money-laundering directive[2] had expired on 26 June 2017. The directive contained relevant provisions on beneficial ownership, such as its definition, customer due diligence requirements and access to beneficial ownership information. In addition, a proposal for a fifth anti-money-laundering directive aimed at strengthening anti-money-laundering measures in the European Union was currently being discussed.

8. The revision of the Forty Recommendations of the Financial Action Task Force on Money Laundering in 2012 strengthened the requirements in order to support countries' access to adequate, accurate and timely information on the beneficial ownership of legal persons and arrangements. The Forty Recommendations require countries to understand the money-laundering and terrorist financing risks they face associated with legal persons and arrangements, expect rapid, constructive and effective international cooperation in relation to beneficial ownership information and provide for mechanisms to ensure the availability of and access to beneficial ownership information by competent authorities. Measures requiring financial institutions and designated non-financial businesses and professions (DNFBPs)[3] to undertake additional steps when dealing with domestic politically exposed persons were also included. A new methodology for the evaluation of countries' compliance with the Forty Recommendations was adopted in 2013, and included a new framework for evaluating the effectiveness of countries' regimes related to anti-money-laundering/combating the financing of terrorism (AML/CFT), as well as an assessment of their technical compliance with the Forty Recommendations. Eleven immediate outcomes were introduced as measurement indicators for assessing effectiveness, with one of them covering the availability to competent authorities of information on beneficial ownership. Other important immediate outcomes relevant to beneficial ownership included those that covered the effectiveness of supervision of financial institutions and DNFBPs, and the effective application of required AML/CFT measures by DNFBPs and financial institutions themselves. In order to assist countries in their implementation of the relevant recommendations, FATF issued a guidance paper on transparency and beneficial ownership in 2014 and submitted a report on beneficial ownership to the G-20 in 2016. At its Summit held in Ise-Shima, Japan, in 2016, the G-7 issued a declaration entitled "G-7 Action to Fight Corruption" in which it recognized the importance of beneficial ownership transparency. In addition, the communiqué and the commitments of individual countries emanating from the London Anti-Corruption Summit in 2016 stressed the importance of access to and timely collection of beneficial ownership information. Moreover, the Leaders' Declaration adopted at the G-20 summit in Hamburg, Germany, in 2017 underlined the G-20 countries' commitment to advancing the implementation of beneficial ownership transparency of legal persons and legal arrangements.

9. Concerning the G-7 countries and the Russian Federation, domestic legislation had been adopted to transpose the fourth European Union anti-money-laundering directive in France (Ordinance No. 2016-1635), Germany (Anti-Money-Laundering Act 2017), Italy (Legislative Decree No. 90 of 25 May 2017) and the United Kingdom of Great Britain and Northern Ireland (Money Laundering Regulations 2017). The

[2] Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money-laundering or terrorist financing.

[3] Designated non-financial businesses and professions include casinos, real estate agencies, dealers in precious metals and stones, lawyers, notaries and other independent legal professionals, accountants and trust and company service providers.

legislative status of beneficial ownership transparency in the other G-7 countries and the Russian Federation was also presented, including that of Canada (Proceeds of Crime (Money Laundering) and Terrorist Financing Act), Japan (Act on Prevention of Transfer of Criminal Proceeds, as amended in 2016), the Russian Federation (Federal Law No. 215-FZ of 23 June 2016) and the United States of America (bill of the Corporate Transparency Act of 2017).

B. New legislation and policy developments at the national level

10. Several experts described legislative efforts to identify beneficial owners in their respective jurisdictions.

11. The expert from Australia reported that his country had reacted to recent recommendations on its anti-money-laundering policies by taking new measures with regard to legal persons and corporate structures. A serious financial crime task force had been established as a multi-agency body combining resources of participating agencies to target serious financial crime within Australia and overseas. The task force received referrals from government agencies and regulatory bodies, self-reports from the private and public sectors and information obtained from whistle-blowers and international stakeholders, as well as through public inquiries. Among the challenges encountered were finding the right balance in the relationship with private sector bodies, receiving timely mutual legal assistance from abroad and overcoming obstacles presented by attorney-client privilege. With regard to the latter, a legal professional privilege practice group had been established within the Australian Federal Police. Furthermore, actions had been taken on the basis of information disclosed in the "Mossack Fonseca papers" in 2016. The expert reported on some significant high-level cases, including the "Operation Elbrus" tax fraud case, which had involved a number of companies with "straw directors" and had resulted in numerous restraining orders and arrests.

12. The expert from Argentina reported that his country had also reacted to international recommendations regarding deficiencies in its anti-money-laundering policies. New money-laundering and capital market legislation had created enhanced customer due diligence requirements, and reforms were still ongoing. A plan regarding beneficial ownership transparency had been adopted that obliged, inter alia, banks to maintain a database holding critical information on all their clients. Legal persons had to inform banks of their final beneficiaries and their shareholders. The financial intelligence unit had established new criteria for the application of customer due diligence in the banking and exchange sector, moving from a formalistic compliance approach to a risk-based approach. The expert from Argentina considered it a challenge that there was no centralized authority to collect information on companies from all the provinces of Argentina.

13. The expert from Brazil reported that the Internal Revenue Service of Brazil had adopted an instruction in 2016 that obliged any person receiving a donation to register the donor. In accordance with new money-laundering legislation, plea bargaining with companies had been allowed. Investigators had concluded numerous settlements in the "Lava Jato" case, thereby contributing to the success of the very complex investigations. The expert from Brazil considered that the obligations prescribed by law were sufficient, but that their implementation remained generally weak. Another difficulty was that prosecutors needed a judicial order to access corporate information held by the Internal Revenue Service, and judges observed very high standards in granting such orders.

14. The experts from Norway reported that, in Norway, Parliament had requested the Government in 2015 to establish a beneficial ownership register, but it was not yet clear whether it would be open to the public and include companies registered on the stock exchange. As a member of the European Economic Area, Norway in principle intended to implement the fourth European Union anti-money-laundering directive, but had not yet fixed a specific date for its applicability. It was stressed that,

in Norway, civil society had played a fundamental role in initiating and pursuing the debate about beneficial ownership, financial transparency and establishing a public register in that regard.

15. The expert from Nigeria reported that his country had started to regulate company registers in the 1990s. Each company had to register all its associates with the Corporate Affairs Commission, and a legal practitioner had to verify the information. As the Government of Nigeria had announced at the London Anti-Corruption Summit in 2016, it was committed to establishing a central organ for keeping beneficial ownership information. In Nigeria, tax authorities did not keep information on beneficiaries; however, the money-laundering legislation foresaw the obligation of financial institutions to identify beneficial owners. Anonymous accounts or shell companies were prohibited. Enhanced disclosure rules were in place for the extractive industries, government officials and politically exposed persons. Confiscation of assets could be ordered on the basis of the failure to disclose, which was established as a crime. In addition, the expert from Nigeria mentioned a number of challenges, including the lack of a central repository of beneficial ownership information and inadequate tools for checking the information provided by companies.

16. The expert from Guernsey stated that Guernsey had a central beneficial ownership register, to which all financial institutions and trust and company service providers were required to report. The information contained therein was available to law enforcement and regulatory bodies, and the financial intelligence unit could transmit it abroad through the Egmont Group of Financial Intelligence Units. The threshold to establish beneficial ownership was defined at 25 per cent ownership of capital.

17. The expert from the Republic of Moldova reported that her country had drafted new anti-money-laundering legislation, with the support of the European Union, in order to respond to recommendations on its money-laundering policy. The legislation had improved the obligations of reporting agencies to carry out customer due diligence. The State Registration Chamber must collect and update beneficial ownership information. Since January 2017, politically exposed persons had been obliged to submit asset declarations to the National Integrity Authority, and that obligation had been successfully enforced and had given rise to high expectations for improved money-laundering investigations.

18. The expert from the Russian Federation reported that, in in his country, anti-money-laundering legislation contained the obligation of all Russian legal entities (with some exceptions) to possess and update information on their beneficial owners and keep such information for five years. The beneficial owner was defined in that legislation as an individual who ultimately and directly or indirectly (via third parties) has a stake of 25 per cent or more in the capital of the relevant legal entity and the possibility to directly or indirectly control the actions of the clients. The legislation obliged all entities to take measures that were reasonable and available under the circumstances to identify beneficial owners. In the case of failure to identify the beneficial owner, the legal entity was obliged to keep information on the measures undertaken. That information had to be provided to the financial intelligence unit and the Federal Tax Service upon their request, ideally through an electronic channel, within five working days. Failure to identify beneficial owners or to update, maintain and provide information on them was an administrative offence and carried penalties up to the equivalent of approximately 590 euros (for officials) or 7,355 euros (in the case of legal entities). Auxiliary sources that could be used to identify beneficial ownership included the information on persons controlling or influencing banks held by the Bank of Russia, the list of affiliated persons submitted by joint stock companies, the lists of persons pertaining to the same groups disclosed by the Federal Antimonopoly Service and commercial databases. Furthermore, some Russian politically exposed persons were not allowed to own foreign bank accounts, and all Russian citizens were obliged to report such accounts to the tax authorities. Cases of failure to report might be detected through international information exchange

and might, in such instances, result in politically exposed persons losing their public positions.

19. The expert from the United States reported that his country had reformed its customer due diligence regulations in 2016 in order to align them more closely with the international anti-money-laundering standards. Affected financial institutions were to comply with those obligations no later than May 2018. A new obligation of financial institutions to identify beneficial owners had been established and would be monitored on an ongoing basis as a part of financial institutions' obligations to conduct ongoing monitoring of their customer relationships. As from May 2018, when legal entities established new accounts at banks, securities broker-dealers and commodities brokers, the financial institutions were to identify and verify the identity of those natural persons that directly or indirectly hold at least 25 per cent of their equities. In all cases, financial institutions must also identify and verify the identity of one natural person who has significant responsibility for controlling the legal entity. Those obligations applied regardless of the nationality of the beneficial owners. The financial intelligence unit, the Financial Crimes Enforcement Network, had the authority to issue geographic targeting orders, obligating financial institutions to report on transactions in certain geographic areas. It had most recently used that authority to require title insurance companies, which were necessary participants in most real estate transactions in the United States, to disclose the beneficial owners of legal entities that purchase high-end real estate without financing in a number of United States markets. Furthermore, a congressional representative had introduced legislation (the Corporate Transparency Act) that would provide the states with financial incentives to implement company formation systems that meet minimum standards for the collection of beneficial ownership information. For states that did not meet the standards, the Act would authorize the Department of the Treasury to implement regulations mandating the disclosure of beneficial ownership information to it at the time of company formation.

20. The expert from the FATF secretariat provided an update on the outcome of evaluations undertaken on the Forty Recommendations and in accordance with the 2013 methodology. This included recommendations 10, 12, 22, 24 and 25, and immediate outcomes 3, 4 and 5 under the effectiveness part of the methodology.

III. Background on *The Puppet Masters*

21. The expert and the researcher from the StAR Initiative provided some background on *The Puppet Masters* and an overview of the research on grand corruption cases that had emerged after its publication, which formed part of the empirical basis for the expert group meeting.

A. Origins and methodology of *The Puppet Masters*

22. The expert from the StAR Initiative recalled the methodology and recommendations made in *The Puppet Masters*. The impulse for the study and resulting publication originated from experiences in which the lack of information on the beneficial owners of corporate vehicles abroad had been one of the biggest barriers to international asset recovery.

23. The authors of the study had used information from reliable open sources on 150 corruption cases in which corporate vehicles were used to hide beneficial ownership. Furthermore, the authors had analysed the information available in 40 company registries, and had conducted a series of interviews with investigators and banks. Moreover, they had conducted an audit study ("mystery shopping exercise") involving the solicitation of offers for shell companies from a range of trust and company service providers.

24. In the cases analysed, offenders had mostly used companies (most of which were shell companies) and, only to a lesser extent, trusts, associations and non-profit structures to hide their assets. Two thirds of the corporate vehicles had been used transnationally (both onshore and offshore) and one third domestically. Over 90 per cent of the cases had involved professional intermediaries. The evaluated registries had only rarely contained shareholder information, and only one had included beneficial ownership information. Requirements for updating and verification had rarely been enforced. It had been found that easy access and search functions, as well as historical record-keeping, had not always been available. Furthermore, investigators faced obstacles in requesting information from other jurisdictions and in overcoming obstacles posed by attorney-client privilege.

25. The authors of *The Puppet Masters* had not found much evidence of the use of trusts. The study had included neither discussions on whether beneficial ownership information could be obtained from tax authorities, nor ways to improve cooperation between law enforcement and tax authorities.

26. Since the publication of *The Puppet Masters*, the issue of beneficial ownership had become a high priority on the global political agenda and some positive developments could be noted in that regard, owing in particular to international anti-money-laundering initiatives.

B. Research on new cases of grand corruption

27. As mentioned above, one of the several empirical foundations of *The Puppet Masters* was a review of 150 grand corruption cases from a wide range of jurisdictions that had involved the misuse of corporate vehicles for the purposes of hiding corrupt funds and the identities of politically exposed persons, or otherwise furthering a corruption scheme. As part of the preparations for the expert group meeting, UNODC conducted qualitative research into 40 new grand corruption cases that had taken place, or had been made public, between 2010 and 2017.

28. That research represented an effort to determine whether the Forty Recommendations required updates or additions. The research relied on public sources, official government and legal sources, as well as outreach to relevant practitioners and organizations. Cases in which the evidence of corporate vehicle misuse for the purpose of furthering a corruption scheme was not available or was deemed insufficient were excluded from the analysis.

29. The nine corruption case studies selected for discussion at the international expert group meeting displayed a number of characteristics that were highlighted as potential trends for further analysis in the presentation by the researcher from the StAR Initiative. However, it was noted that, owing to the inherent constraints of using the case study methodology to study criminal behaviour, the findings were anecdotal and not necessarily representative, and therefore could have been incidental, rather than indicative of larger trends.

30. According to the research, the anonymously controlled corporate vehicle was still a key enabling tool in many different types of corruption schemes, including cases of bribery, self-dealing, illicit enrichment and embezzlement. None of the corruption cases reviewed would have been possible without that tool.

31. The purposes of corporate vehicles in corruption schemes can go far beyond mere asset control or channelling bribe payments. The case studies reviewed demonstrated a wide variety of more creative or more sophisticated uses of corporate structures in grand corruption schemes. Such uses included inserting a corporate vehicle into a negotiated contract for the purpose of extracting profits and/or awarding an ownership stake in the corporate vehicle to a politically exposed person, and awarding natural resource licences to a shell company created with the specific intention of transferring the licence to another company, at large profits.

32. It was found that corruption schemes increasingly involved the use of new, more sophisticated types of corporate vehicles. For example, the use of investment funds to hide the proceeds of corruption was highlighted. In one of the case studies, private overseas investment funds that had been registered in so-called tax havens or secrecy jurisdictions had been used as conduits for money embezzled from a State-owned investment fund. In the same case, an investment fund registered in one of the tax havens had been utilized in an elaborate scheme to obscure the true value of an equity investment and cover up the embezzlement. Some experts at the meeting confirmed that finding, commenting on the apparent rise in the misuse of investment funds for the purpose of concealing illicit gains.

33. From a law enforcement perspective, the abuse of "foreign" corporate vehicles that were incorporated outside the main jurisdiction where the corruption offence was committed constituted the greatest problem, as such circumstances required international cooperation. In all but one case study discussed at the expert group meeting, the fact that corporate vehicles had been registered in a foreign jurisdiction had been essential in efforts to hide the beneficial owners and proceeds of corruption.

34. The case studies revealed that popular corporate structures were corporations or limited liability companies that were themselves incorporated in a "foreign" jurisdiction and/or had a corporate legal owner that was incorporated in a "foreign" jurisdiction, often a secrecy jurisdiction, and that had either corporations or limited liability companies as company directors or nominee company directors that had been provided by trust and company service providers or trusted associates.

35. The case studies also revealed indications of a potential rise in the popularity of "new" jurisdictions with untainted reputations that have not been flagged as high-risk in terms of compliance with anti-money-laundering requirements, as other avenues for laundering corrupt funds have narrowed.

36. The case studies further revealed the frequent use of informal agent relationships for the purpose of hiding the identity of the beneficial owner. In many cases, the people occupying formal positions in corporate structures were trusted associates or relatives, rather than professional nominees. Financial intermediaries, including banks, lawyers, trust and company service providers and investment advisors, were heavily involved in facilitating the schemes. However, it was not apparent whether trust and company service providers were used in all or most of the case studies.

37. The case studies featured a great diversity in the level of sophistication of the techniques and corporate structures employed to hide the beneficial owners and obfuscate the money trail of the corrupt funds. Although there were some indications of an increase in the level of sophistication of corporate structures, some politically exposed persons also resorted to quite basic or careless techniques, such as channelling money through bank accounts held in a relative's name or, in two cases, even in their own name. This underlines that politically exposed persons who benefit from corruption schemes may not always be experts in the most advanced techniques favoured by organized criminal groups and money-launderers.

IV. Review of the conclusions and recommendations of *The Puppet Masters*

38. In a series of thematic sessions, the international expert group meeting examined the conclusions and recommendations contained in the substantive parts of *The Puppet Masters*. In addition, a separate session was dedicated to the question of whether tax authorities could be possible sources of beneficial ownership information.

A. Session 1. The Beneficial Owner

Moderator: Yves Aeschlimann (Switzerland)

39. In session 1, participants reviewed the conclusions and recommendations in part 2 of *The Puppet Masters*, entitled "The Beneficial Owner". Part 2 deals with the definition of beneficial ownership and terminology. It concludes that beneficial ownership is a concept that is relatively straightforward in theory but difficult to apply in practice. The essence is to identify the person who ultimately controls a corporate vehicle. This identification will always be a highly context-dependent, de facto judgment; beneficial ownership cannot be reduced to a legal definition. The study also distinguishes between substantive and formal definitions of beneficial ownership. The difference between the substantive approach and the formal approach is that the substantive approach involves remaining open-minded about who the beneficial owner may be and taking the outcome of the formal approach (e.g., shareholdings above a certain threshold) as a working hypothesis rather than as a final, definitive conclusion.

40. On the basis of these conclusions, the study makes four recommendations regarding the concept of beneficial ownership: (a) countries should ensure that the beneficial owner is always a natural person (recommendation 1); (b) they should consider introducing an alternative terminology for persons identified as beneficial owners under the formal approach (recommendation 2); (c) they should develop a clear formal standard for such persons but should require deeper inquiry in high-risk scenarios (recommendation 3); and (d) ongoing due diligence should be used to bridge the gap between the two approaches (recommendation 4).

41. The starting point for the discussions regarding the definition of "beneficial owner" was the definition given by FATF: "'Beneficial owner' refers to the natural person(s) who ultimately owns or controls a customer and/or the natural person on whose behalf a transaction is being conducted. It also includes those persons who exercise ultimate effective control over a legal person or arrangement."[4]

42. Overall, participants agreed that the four recommendations contained in part 2 of *The Puppet Masters* remained valid and relevant in the context of new developments in beneficial ownership transparency since 2010.

43. With respect to recommendations 1 and 2, experts stated that the definition of beneficial ownership at times still represented a challenge, especially in cross-jurisdictional cooperation and investigations. There was consensus among experts that recommendation 1 was critical to efforts to increase beneficial ownership transparency in corruption cases. That was also borne out by the case studies prepared for the expert group meeting, which frequently featured corporate legal owners that had typically been registered in foreign jurisdictions. Some experts highlighted that, even though the beneficial owner is always a natural person, such a natural person could be acting on the orders of a third person who is hiding behind a "straw man".

44. The expert from the Russian Federation pointed out that different legal definitions that generally fall under the concept of beneficial ownership could be found in different fields of law, for example, tax law, corporate law, competition law and AML/CFT law. He questioned the usefulness of having alternative terminology, such as "person with significant influence or control" for persons identified as beneficial owners under the formal approach, and suggested that the concept of beneficial ownership could instead be seen as an "umbrella" category that comprised several subcategories. Notwithstanding that view, the continued relevance of recommendation 2 was evident from the fact that different definitions of beneficial

[4] Financial Action Task Force/Organization for Economic Cooperation and Development, *FATF Guidance: Transparency and Beneficial Ownership*, October 2014, p. 8. As noted in the FATF guidance, "an essential element of the FATF definition of beneficial owner is that it extends beyond legal ownership and control to consider the notion of ultimate (actual) ownership and control".

ownership were employed during the experts' discussion, leading to difficulties in communication on the topic.

45. Other experts found the distinction in terminology useful but stressed that the identification of a person with significant influence or control, e.g., a person holding more than 25 per cent of the shares in a company, was only a first step in the identification of the beneficial owner and that substantive inquiries beyond that step were necessary. The legislation of Switzerland was mentioned as an example of a jurisdiction that implemented recommendation 2 by differentiating between the beneficial owner and the person in control of a corporate entity. It was noted that, in the United Kingdom, the register of "people with significant control" also made that distinction in that it labelled the person with a minimum of 25 per cent ownership stake as a "person with significant control", thereby acknowledging that that person might be different from the beneficial owner.

46. Experts also discussed whether the most widely used minimum threshold of 25 per cent ownership interest was appropriate, or needed revision. Argentina was mentioned as an example of a jurisdiction that used a lower threshold, which was viewed as favourable by some experts. Other experts noted that lowering the minimum quantitative threshold would inevitably lead to a dilution in the quality of beneficial ownership data. The expert from the United States pointed out that the reduction of the threshold (e.g., in the draft fifth European Union anti-money-laundering directive) would have repercussions for the application of enhanced due diligence. Nevertheless, he did not think that such a lower threshold had consequences for the definition of beneficial ownership.

47. It was noted that an overly narrow, formal definition of beneficial ownership that relies on minimum percentage thresholds of legal ownership was problematic as it created loopholes and was vulnerable to workarounds by actors actively trying to hide beneficial ownership information. In that connection, the continued relevance of principal-agent relationships in the context of grand corruption schemes was identified as a major obstacle to identifying beneficial owners of corporate vehicles. As many beneficial owners used trusted associates to delegate effective control and legal ownership over corporate structures, a practice that was confirmed in many of the case studies prepared for the expert group meeting, experts noted that the threshold approach could not be relied on as the sole or main solution for gaining access to beneficial ownership information, though it might provide helpful clues for investigators. Therefore, most experts expressed support for a principle-based, substantive approach to identifying beneficial owners over a purely formal approach. There was a consensus that there should be a focus on effective implementation of the existing FATF standard.

48. Representatives from the private sector noted that ongoing due diligence (recommendation 4) helped address the problem of distinguishing beneficial ownership from effective control over a corporate structure. That recommendation addressed the need for ongoing monitoring of the active life of a bank account, which typically revealed clues about the identity of the beneficial owner. Even though the controller of the bank account might be a different person than the beneficial owner, the objective of the financial service provider was to identify the person at the end of the chain who benefited financially from the corporate structure. One expert pointed out that the beneficial owner was usually the person who called the financial service provider in the event of a stock exchange crash to check on his or her investments.

49. Participants noted that, for financial institutions, the requirement for ongoing due diligence contained in recommendation 4 was reflected in recommendation 10 of the Forty Recommendations, which contained requirements for financial institutions to assess the beneficial owners of customer accounts and to undertake ongoing monitoring, as well as in the fourth European Union anti-money-laundering directive. In that context, experts raised issues in regard to relying on information gained through self-reporting, as well as penalties for legal entities that were negligent in updating beneficial ownership information or that deliberately provided

misinformation. Furthermore, experts questioned whether the monitoring requirement could be honed to focus on the monitoring of corporate registers and, where utilized, beneficial ownership registers, in the light of issues relating to the static nature of the information and the lack of auditing and enforcement with regard to the updating of corporate and beneficial ownership information.

B. Session 2. Where Does the Beneficial Owner Hide?

Moderator: Vadim Tarkin (Russian Federation)

50. In session 2, the experts examined the conclusions and recommendations contained in part 3 of *The Puppet Masters*, entitled "Where Does the Beneficial Owner Hide?". In that part, it was noted that, in the vast majority of grand corruption cases, corporate vehicles — including companies, trusts, foundations and fictitious entities — were misused to conceal the identities of the people involved in large-scale corruption. Of those corporate vehicles, the company (in particular the corporation and the limited liability company) was the most frequently used. Most companies that were used to conceal beneficial ownership were non-operational, although operational companies were also used, in particular for paying bribes. Shelf companies posed a particular problem, as they provided individuals with a company history and a set of company officials unrelated to the corrupt individual.

51. On the basis of those conclusions, five recommendations with regard to the use of corporate vehicles to conceal beneficial ownership were made in *The Puppet Masters*: (a) jurisdictions should perform a systematic risk analysis of the cases in which corporate vehicles are being used for criminal purposes, to determine typologies that indicate a heightened risk (recommendation 1); (b) they should develop a definition as to what constitutes a shelf company, and should make such companies less desirable to illicit actors (recommendation 2); (c) they should require financial institutions or service providers to obtain a declaration of beneficial ownership from their clients (recommendation 3); (d) they should abolish bearer shares (recommendation 4); and (e) they should bring together law enforcement and trust and company service providers to educate them about the types of corporate vehicles and constructions used by criminals (recommendation 5).

52. Confirming the risk analysis contained in *The Puppet Masters*, the presentation by the StAR consultant showed that, in the overwhelming majority of cases, corporations and limited liability companies had been used to hide assets. According to the available empirical data, trusts only accounted for a very small portion of the corporate vehicles used to hide assets in grand corruption cases. However, that might also be a result of the difficulties faced in investigating such structures. The expert from Switzerland observed that he had seen an increase in the use of trusts registered in "untainted" jurisdictions. Participants generally agreed that trusts might present a considerable risk to anti-money-laundering and supervisory efforts because they were common law entities that were difficult to find, mobile and unregulated. However, it was noted that there was a lack of understanding of the risk, i.e., as to whether the lack of relevant data meant that trusts were not being used, or whether it meant that illicit actors were doing a good job of obscuring the use of trusts. Moreover, some experts observed that criminals sought to maintain a high degree of control over the assets they beneficially owned and that that might be more difficult to achieve in a trust. Moreover, trusts were more expensive to set up and administer. The expert from the Russian Federation shared his experience in defining trusts and other similar entities as "foreign structures without legal personality" as a way to deal with a common law institute in a continental law system. Such an approach allowed financial institutions to identify trusts as clients and not just as natural persons in the course of carrying out customer due diligence and "know-your-customer" procedures.

53. The experts further noted that, owing in part to increased AML/CFT regulation and enforcement, the level of sophistication had increased over the previous 25 years. At the time, more complex structures were encountered that had been established in

multiple jurisdictions. The expert group meeting should explore which type of company was used for which purpose. In addition, beneficial ownership was a dynamic concept and the beneficial owner could change over time. Therefore, if a register only contained information on the person who had been the beneficial owner at the time the company was set up, for example, in the case of shelf companies, there was a high likelihood that the owner would change later. The approach used in the Russian Federation to oblige legal entities to possess, update and maintain information on their beneficial owners was mentioned as a useful tool for mitigating such situations.

54. With regard to shelf companies, the expert from the World Bank pointed out that the time and effort required to incorporate a company had been reduced substantially in all relevant jurisdictions. Therefore, the legitimate advantages of having shelf companies available had all but disappeared. Moreover, it was noted that, owing to reporting obligations, it was relatively easy to verify if a company was active or not. Some experts noted that there was a tendency to acquire older companies to create the impression that the company was well established. Another trend seemed to be the use of certain types of limited partnerships, whose use had seen a dramatic increase.

55. Mandatory beneficial ownership declarations were considered a good practice, but it was important to understand that one form did not fit all situations. Mere self-declaration was of little value. Banks needed experience and guidance to ask the right questions. Some countries had produced guidelines to define beneficial ownership. Several experts underlined the importance of ongoing monitoring. Stricter scrutiny could make a big difference. However, in that regard, one expert remarked that "private bankers don't ask questions".

56. The experts agreed that bearer shares, although still used to conceal beneficial ownership, were no longer a major problem in practice. Many jurisdictions had already abolished that type of share. Therefore, the recommendation to that effect had somewhat lost its relevance.

C. Session 3. Finding the Beneficial Owner

Moderator: Frederic Raffray (Guernsey)

57. In session 3, the experts examined the conclusions and recommendations contained in part 4 of *The Puppet Masters*, entitled "Finding the Beneficial Owner". In that part, the study described the relevant actors and institutions that could help to identify the corrupt persons behind a corruption scheme or establish a link between a known target and certain assets. It concluded that corporate registers constituted a primary source of information in the search for beneficial ownership information. However, the value of such registers could be significantly enhanced. Evidence from the database of grand corruption cases showed that trust and company service providers were often involved in establishing and managing the corporate vehicles encountered in grand corruption investigations and that they were generally in a position to obtain useful information on the natural persons ultimately in control of the corporate vehicle. In addition, the services provided by financial institutions were crucial to the money-laundering process because without them, it would be impossible to launder funds on a significant scale. Moreover, more complex arrangements were rarely established without an international element.

58. On the basis of those findings, 14 recommendations with regard to finding the beneficial owner were made in part 3 of *The Puppet Masters*. The recommendations concerned the content and establishment of corporate registers (recommendations 1–4), the introduction of unique identifiers (recommendation 5), the responsibility of trust and company service providers and their use as gate-keepers (recommendations 6–9), attorney-client privilege (recommendation 10) and the obligations of financial institutions to collect beneficial ownership information, conduct customer due diligence and ensure compliance (recommendations 11–14).

59. Experts noted that the establishment of dedicated beneficial ownership registers was the one area that had possibly seen the greatest evolution since the publication of *The Puppet Masters*. For instance, the fourth European Union anti-money-laundering directive[5] required each member State of the European Union to set up a central beneficial ownership register. The experts from Brazil, Norway, the Republic of Moldova and Guernsey informed the expert group meeting that their countries intended to or had recently introduced beneficial ownership registers. Some States, such as the United Kingdom and Slovakia, had made those registers publicly accessible, although the majority of States had only granted access to competent authorities and financial intelligence units.

60. Despite the great increase in the number of such registers, several experts remained sceptical about their practical usefulness. Registers could only provide good-quality information if a number of conditions were fulfilled, including some form of ongoing verification and enforcement of legal requirements.

61. There was some discussion as to whether blockchain technology could make registers more reliable and protect against false entries. However, it was pointed out by some experts that, although such technology could make registers tamper-proof, it did nothing to solve the fundamental problem of registers, namely, that incorrect beneficial ownership data was often supplied to them.

62. In Nigeria, for example, a tax identification number was used as a unique identifier for all legal entities. That enabled investigators to efficiently collect evidence from different domestic agencies within the jurisdiction (for example, tax, licensing or municipal authorities).

63. The important role played by trust and company service providers in the collection of beneficial ownership information was stressed by several experts. The expert from Guernsey described the "gate-keeper" regime in Guernsey, in which all non-residents establishing a legal entity were required to go through a trust and company service provider. The service providers were regulated under the domestic anti-money-laundering compliance regime and were required to collect beneficial ownership information. Several experts agreed that trust and company service providers could play a crucial role in the collection of beneficial ownership information and that they should be subject to regulation in a strict AML/CFT regime.

64. In response, some experts noted that, in many jurisdictions, corporate vehicles could be established without the involvement of a trust and company service provider. Likewise, limiting the mandatory use of trust and company service providers to non-residents (*The Puppet Masters*, part 3, recommendation 9) could undermine the effectiveness of a gate-keeper regime in jurisdictions such as the United States, where many corporate vehicles were established by residents. A suggestion was made to make the use of trust and company service providers mandatory to ensure the existence of a domestic holder of beneficial ownership information. Many civil law jurisdictions already required a notarial deed for the establishment of corporate entities. In Spain, the information held by notaries was accessible from a centralized database, and in Liechtenstein, a regulated trust and company service provider must be on the company's board for the entire duration of its existence.

65. With regard to recommendation 10, there was consensus that attorney-client privilege was a major obstacle in all common law jurisdictions. The expert from Australia described how the Australian Federal Police had mitigated problems arising from legal professional privilege by establishing a dedicated practice group on legal professional privilege comprising lawyers and law enforcement officers. That group gave advice relating to current investigations and advocacy services for teams executing search warrants. The members of the group engaged directly with legal

[5] See article 30 of Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money-laundering or terrorist financing. The directive was to be transposed into national law by European Union member States by 26 June 2017.

representatives or other parties claiming legal professional privilege with a view to resolving or minimizing such claims.

D. Session 4. Tax authorities as possible sources for beneficial ownership information

Moderator: Young Lee (United States)

60. While *The Puppet Masters* recognized that tax authorities could provide useful details about corporate vehicles,[6] it did not explore that possibility in any detail. Nevertheless, many believe that the information held by tax authorities could be useful for obtaining information on the beneficial owner, although there are significant challenges associated with such an approach. Moreover, the G-20 finance ministers have asked FATF and the Global Forum on Transparency and Exchange of Information for Tax Purposes to work closely on improving the implementation of the international standards on transparency, including the availability of beneficial ownership information and its international exchange.

61. An expert from the Vienna University of Economics and Business initiated the session by describing the University's Tax and Good Governance Project and presenting its findings. The expert noted that most jurisdictions had a legislative framework that dealt with the exchange of information between agencies. However, as explained in the second edition of the report by the Organization for Economic Cooperation and Development (OECD) on effective inter-agency cooperation in fighting tax crimes and other financial crimes, that legal framework was seldom utilized or fully applied in practice.

62. Some experts remarked on the restrictions on the exchange of information with tax authorities. As the collection of tax information targeted specific tax offences, authorities in some countries could not share it for the purpose of investigating other conduct. It was pointed out that tax information was not collected and structured in a way that favoured even tax investigations, but rather in a way that was strictly suitable for taxation purposes. In the United States, tax authorities could only share information with other agencies if such agencies used the information for the same purpose for which it had been collected, i.e., to identify tax fraud and evasion. Tax information had been abused in the past, and therefore there were strict statutory limitations on the use of tax information for non-tax purposes. Under existing United States tax agreements with other jurisdictions, tax information could generally only be transferred for tax purposes, and that limitation was rigorously enforced. Furthermore, several experts mentioned data protection requirements that presented obstacles to data sharing in criminal cases beyond tax matters. It was further noted that, even where tax authorities could share information with investigators, tax authorities and money-laundering investigators were situated in different parts of government and therefore lacked a mechanism for continuous cooperation.

63. Other experts identified avenues through which their legislation allowed their authorities to share tax information for the purposes of investigation of other offences. An expert from the Russian Federation explained that, in his country, tax information could be shared domestically by tax authorities in cases where there was an indication of a criminal offence. The legislation provided a mechanism and grounds for the domestic disclosure of tax information. In addition, despite the existence of the legislation, agencies concluded domestic bilateral agreements in order to clarify the type of information that could be shared and the applicable procedures. It was noted that, in Ghana, the legislation allowed tax authorities to share information without limitations, and the police could easily request information from tax authorities, under the sole condition that the collected information must be used for the purpose stated in the request.

[6] See *The Puppet Masters*, p. 102.

70. The expert from the FATF secretariat made reference to the cooperation of FATF with the secretariat of the Global Forum on Transparency and Exchange of Information for Tax Purposes. Lastly, experts identified some OECD publications that addressed the sharing of information that might be useful for authorities, namely, "Improving Cooperation Between Tax and Anti-Money Laundering Authorities" (which, according to one expert, stated that an effective approach could be to grant tax authorities access to suspicious transactions reports[7]), "Effective Inter-Agency Cooperation in Fighting Tax Crimes and Other Financial Crimes" and "Bribery and Corruption Awareness Handbook for Tax Examiners and Tax Auditors".

E. Session 5. What was missing from *The Puppet Masters*?

Moderator: Emile Van der Does de Willebois (World Bank StAR Initiative)

71. In session 5, the experts explored topics that were not treated in *The Puppet Masters* but that were deemed by the experts to be relevant to beneficial ownership transparency and could therefore be included in future editions of the publication.

72. The moderator explained that there were two major areas that had not been explored in *The Puppet Masters* in any depth, namely, unincorporated entities and cooperation with tax authorities.

73. With regard to unincorporated entities, some experts proposed to look beyond corporate vehicles and trusts. Although insurance products that included a bank account might already be on the decline, they were still relevant. In addition, investment funds, which did not have a corporate structure, were not legal entities and were exempt from some obligations, needed some examination. In the same vein, it was suggested that private equity, hedge funds and shadow banking should be added to the list of entities that could be explored further. Shelf companies and so-called one-day companies ("fly-by-night companies") that were quickly closed down after their establishment in order to escape obligations also posed challenges that might merit closer inspection.

74. Some experts noted that agency relationships could also be used to disguise the beneficial owner. Indeed, the increasing regulation of professionals might have led to a shift to more informal agency relationships, in which assets were held by friends, relatives or "straw men". That was a situation well known from organized crime. Whereas in the past, such relationships had been governed by side letters, such letters seemed to be disappearing and were being replaced with oral agreements that were more difficult to trace.

75. One expert mooted the idea of limiting the complexity of corporate structures. However, another expert thought that, although complexity was a risk factor, it was not automatically an indicator of illegality; the main use of companies was to limit liability.

76. It was further emphasized that tax authorities held a wealth of information that was relevant to beneficial ownership information. The problem laid in getting access to such data. In some respects, developments in tax matters were far ahead of developments in AML/CFT matters in that authorities had automatic access to a large amount of financial information. In particular, with the establishment of the Standard for Automatic Exchange of Financial Account Information in Tax Matters by OECD and G-20 countries, the automatic exchange of information was now becoming the global standard.

[7] In accordance with recommendation 29 of the Forty Recommendations of the Financial Action Task Force on Money Laundering, countries' financial intelligence units should have access to the widest possible range of information, including administrative information, to enable them to receive and analyse suspicious transaction reports for possible cases of money-laundering or terrorist financing.

77. Experts observed that tax information was often confidential and tax authorities were often not authorized to share such information with other agencies. That was particularly the case after confidential tax information had been abused for political purposes in some cases in the past, which had led to strong safeguards against the sharing of such information.

78. Some experts mentioned country-by-country tax reporting and the OECD project on base erosion and profit shifting (BEPS). Others cautioned that considering the issue of tax evasion in the absence of elements of corruption would lie outside the focus of the international expert group meeting.

79. Participants agreed that the use of attorney-client privilege and/or legal professional privilege was a major issue and merited further study. Holding a dedicated workshop on that matter was proposed. The approach taken by Australia, creating a special practice group, was considered a good practice that might be replicated in other jurisdictions.

80. With regard to beneficial ownership registers, many experts thought that, given the remarkable development in that field over the previous years, it was time to update the relevant recommendations and discuss the options for countries to establish registers or alternative solutions. Some experts advocated recommendations on minimum content requirements, and on their interoperability.

81. The moderator suggested that the question of how expensive and difficult it is to register a corporate vehicle in various jurisdictions should be examined. A very low cost for such registration could be an indicator that the amount of due diligence exercised in the registration process itself was necessarily limited, as the exercise of such due diligence represented a significant cost factor.

82. It was proposed that a possible solution to the problem of secrecy and lack of beneficial ownership transparency might be so-called transparency guarantees or agreements. In return for access to their markets, States should require that companies seeking to exploit natural resources, or wishing to conduct any kind of business, agree to give the host country access to all relevant information.

83. The role of financial intelligence units in the sharing of information was also highlighted, although it was noted that information obtained through that channel was often limited to use for intelligence purposes.

84. It was also noted that privacy laws, data protection and limitations on data retention, such as the right to be forgotten, were principles that could potentially be used to oppose calls for greater beneficial ownership transparency. More generally, human rights questions had so far been largely absent from the debate. Therefore, it might be advisable to address those topics before they were instrumentalized for the purpose of challenging beneficial ownership transparency regulation, for example, in the European courts.

85. Lastly, it was suggested that a review of *The Puppet Masters* should not focus exclusively on improving international cooperation and improving the capabilities of State authorities. Indeed, the marked cultural shift towards greater beneficial ownership transparency since the publication of *The Puppet Masters* seven years earlier was in large part the result of initiatives by non-State actors with an interest in fighting corruption. Non-governmental organizations, civil society organizations, media and journalists' consortiums, and private companies all played key roles in detecting, exposing and documenting corruption cases, as witnessed by the publication of the leaked "Mossack Fonseca papers" by an international consortium of media organizations. Revisions or updates to the recommendations could react to those important new developments by addressing questions of access to information about legal entities by non-State actors and, more broadly, including recommendations on the role of investigative journalism.

V. Conclusion and outlook

86. The closing session was dedicated to discussing the way forward. Participants observed that the previous sessions had shown that the international expert group meeting could provide added value to the debate on beneficial ownership transparency.

87. For the second meeting of the international expert group, which was envisaged for the first half of 2018, several experts suggested that representatives of tax and anti-money-laundering authorities and prudential supervisory bodies should also be invited. Others felt that auditors and practitioners from the trust and company service provider sector could contribute to the discussions of the expert group meeting. The importance of representation by civil society was also stressed.

88. In terms of substance, it was agreed that the expert group meeting should concentrate on a review of the recommendations contained in *The Puppet Masters* and generally focus on new developments and topics that were missing from it.

89. On a related note, it was suggested that a dedicated workshop on the use of attorney-client privilege and/or legal professional privilege be held.